

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 7443 of 2015 (E)

PETITIONER:

**PRAKASAN.K, PAINTING CONTRACTOR,
M/S.PRESTIGE COLOURS,
KATTIPARAMBIL BUILDING, MAMANGALAM -
ANCHUMANA ROAD, COCHIN - 682 025,
ERNAKULAM DISTRICT.**

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER (WORKS CONTRACT),
COMMERCIAL TAXES, CLAS TOWER,
ERNAKULAM, COCHIN - 682 018.**
- 2. ASSISTANT COMMISSIONER (APPEALS),
COMMERCIAL TAXES, SALES TAX COMPLEX,
COCHIN - 682 015.**
- 3. THE DEPUTY TAHSILDAR,
REVENUE RECOVERY, TALUK OFFICE,
IRITTY - 670 703, KANNUR DISTRICT.**

BY GOVT. PLEADER SRI.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P-1: TRUE COPY OF ORDER PASSED U/S.22(3) BY THE 1ST RESPONDENT FOR THE YEAR 2012 - 13, FOR NON FILING OF RETURNS.
- EXT.P-1(A): TRUE COPY OF ORDER PASSED U/S.25(1) BY THE 1ST RESPONDENT ALLEGING DEFECTS IN 1ST AND 2ND QUARTERLY RETURNS FOR 2013 - 14.
- EXT.P-2: TRUE COPY OF APPEAL DATED 2.3.2015 SUBMITTED BY THE PETITIONER, AGAINST EXT.P1 ASSESSMENT, BEFORE THE 2ND RESPONDENT.
- EXT.P-2(A): TRUE COPY OF APPEAL DATED 2.3.2015 SUBMITTED BY THE PETITIONER, AGAINST EXT.P1(A) ASSESSMENT BEFORE THE 2ND RESPONDENT.
- EXT.P-3: TRUE COPY OF STAY PETITION DATED 2.3.2015, SUBMITTED BEFORE 2ND RESPONDENT ALONG WITH EXT.P2 APPEAL.
- EXT.P-3(A): TRUE COPY OF STAY PETITION DATED 2.3.2015, SUBMITTED BEFORE 2ND RESPONDENT ALONG WITH EXT.P2(A) APPEAL.
- EXT.P-4: TRUE COPY OF REVENUE RECOVERY NOTICES IN FORM NO.1 AND 10 SERVED BY THE 3RD RESPONDENT, PURSUANT TO EXT.P1 DEMAND.
- EXT.P-4(A): TRUE COPY OF REVENUE RECOVERY NOTICES IN FORM NO.1 AND 10 SERVED BY THE 3RD RESPONDENT PURSUANT TO EXT.P1(A) DEMAND FOR THE ASSESSED TAX AND INTEREST.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.7443 of 2015
.....

Dated this the 9th day of March, 2015

J U D G M E N T

Against Ext.P1 series of assessment orders, the petitioner has preferred Ext.P2 series of appeals and Ext.P3 series of stay petitions before the 2nd respondent. Ext.P4 series is the copy of revenue recovery notices. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued for recovery of the amounts confirmed by Ext.P1 series of assessment orders.

2. Heard Sri.Tomson T.Emmanuel, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I dispose the writ petition with the following directions:

- i. The 2nd respondent shall consider and pass orders on Ext.P3 series of stay petitions within a period of two months from the date of receipt of a copy of this judgment, after verifying whether the appeal has been filed within time.

ii. Coercive steps pursuant to Ext.P4 series of notices shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 2nd respondent shall be a reasoned one advertent to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal/revision.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

