

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937**

**WP(C).No. 7460 of 2015 (F)**  
-----

**PETITIONER(S):**  
-----

**M/S. STEEL INDIA, AGED 48 YEARS,  
MAIN ROAD, KOYILANDY, KOZHIKODE  
REPRESENTED BY ITS PARTNER, K.M.VASANTHA KUMAR.**

**BY ADVS.SRI.A.V.MURALIDHARAN  
SRI.C.AJITH KUMAR**

**RESPONDENT(S)/RESPONDENTS:-:**  
-----

- 1. STATE OF KERALA,  
REPRESENTED BY SECRETARY TO GOVERNMENT  
REVENUE DEPARTMENT, THIRUVANANTHAPURAM, PIN - 695 001.**
- 2. THE ASSISTANT COMMISSIONER,  
SPECIAL CIRCLE - I, COMMERCIAL TAXES, KOZHIKODE  
PIN - 673 001.**
- 3. THE DEPUTY COMMISSIONER (APPEALS),  
COMMERCIAL TAXES, KOZHIKODE, PIN - 673 001.**
- 4. THE SALES TAX (RECOVERY),  
OFFICE OF THE DEPUTY COMMISSIONER  
COMMERCIAL TAXES DEPARTMENT, KOZHIKODE, PIN - 673 001.**
- 5. THE INSPECTING ASSISTANT COMMISSIONER,  
DEPT. OF COMMERCIAL TAXES, KOZHIKODE, PIN - 673 001.**
- 6. THE MANAGER,  
STATE BANK OF TRAVANCORE, KOYILANDY, PIN - 673 012.**

**R6 BY ADV.SRI.T.SETHUMADHAVAN (SR.)  
R6 BY ADV.SRI.K.JAYESH MOHANKUMAR  
R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
26-03-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
-----

**EXHIBIT P1. TRUE COPY OF THE ASSESSMENT ORDER DATED 23.01.2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**

**EXHIBIT P2. TRUE COPY OF THE VAT APPEAL DATED 20.02.2015 FILED BY PETITIONER AGAINST EXT.P1 BEFORE 3RD RESPONDENT.**

**EXHIBIT P3. TRUE COPY OF THE PETITION FOR STAY DATED 20.02.2015.**

**EXHIBIT P4. TRUE COPY OF THE PETITION FOR HEARING APPEAL EMERGENCY DATED 20.02.2015.**

**EXHIBIT P5. TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.**

**EXHIBIT P6. TRUE COPY OF THE ORDER DATED 04.03.2015 ISSUED BY THE 5TH RESPONDENT TO THE 6TH RESPONDENT.**

**EXHIBIT P7. TRUE COPY OF THE LETTER DATED 7.03.2015 ISSUED BY THE PETITIONER TO THE 4TH RESPONDENT.**

**EXHIBIT P8. TRUE COPY OF THE LETTER DATED 07.03.2015 ISSUED BY THE PETITIONER TO THE 6TH RESPONDENT.**

**RESPONDENT(S)' EXHIBITS:       NIL.**  
-----

**//TRUE COPY//**

**P.S. TO JUDGE**

**A.K.JAYASANKARAN NAMBIAR, J.**

-----  
**W.P.(C).NO.7460 OF 2015 (F)**  
-----

**Dated this the 26<sup>th</sup> day of March, 2015**

**J U D G M E N T**

The petitioner, who was also the petitioner in W.P.(C). No.7104/2015 that was disposed by this Court by judgment dated 6.3.2015, is a assessee on the files of the 2<sup>nd</sup> respondent. When confronted with recovery steps, at a time when an appeal preferred by him against an assessment order for the assessment year 2010-11 was pending before the 3<sup>rd</sup> respondent, he approached this Court through W.P.(C).No.7104/2015. By judgment dated 6.3.2015 in the said writ petition, this Court had directed the 3<sup>rd</sup> respondent to consider and pass orders on Ext.P3 stay petition preferred by the petitioner before him, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. It was also directed that recovery steps for recovery of amounts confirmed against the petitioner by the assessment order in question, should be kept in abeyance till such time as the 3<sup>rd</sup> respondent passed orders as directed in the said petition filed by the petitioner, and communicated the same to the petitioner. In the present writ petition, the grievance of the petitioner is that, notwithstanding the specific directions in the

judgment in W.P.(C).No.7104/2015, the respondents had approached the 6<sup>th</sup> respondent by way of garnishee proceedings, and directed the 6<sup>th</sup> respondent to issue a demand draft for the amounts due from the petitioner pursuant to the assessment order, and the 6<sup>th</sup> respondent, acting on the directions of the 2<sup>nd</sup> respondent, had issued a demand draft for an amount of Rs.84,02,175/-, which was thereafter encashed by the respondent bank. The learned Government Pleader, on instructions, would submit that the direction to the 6<sup>th</sup> respondent bank was issued prior to the communication of the judgment dated 6.3.2015 in W.P.(C).No.7104/2015, and the amounts were also received from the 6<sup>th</sup> respondent bank prior to the said date, and as of now, the amounts have been credited to the parking account of the State Government with the State Bank of India, Government Section, Kozhikode. It is also pointed out that pursuant to the interim direction of this Court on 11.3.2015, directing that the amounts covered by the demand draft dated 4.3.2015 issued by the 6<sup>th</sup> respondent would not be adjusted towards the tax dues of the petitioner, the respondent Government has not adjusted the amounts towards the tax dues of the petitioner till date. Under these circumstances and with a view to give effect to the judgment dated 6.3.2015 in W.P.(C).No.7104/2015, I dispose the present writ petition

with the following directions:-

(i) The 1<sup>st</sup> and 2<sup>nd</sup> respondents shall give appropriate directions to the Manager, Government Section, State Bank of India, Kozhikode, so as to ensure that the amount of Rs.84,02,175/-, that was credited into the parking account for the purposes of adjustment towards the petitioner's dues under the KVAT Act, is re-credited to the account of the petitioner with the 6<sup>th</sup> respondent bank. The 1<sup>st</sup> and 2<sup>nd</sup> respondents shall do the needful to ensure that the amounts are re-credited to the petitioner's account of the 6<sup>th</sup> respondent bank within ten days from the date of receipt of a copy of this judgment.

(ii) The recovery steps for recovery of any amounts confirmed against the petitioner by the assessment order referred to above, shall be governed by the directions in the judgment dated 6.3.2015 in W.P.(C). No.7104/2015.

(iii) The petitioner shall produce a copy of the writ petition as also the judgment before the 2<sup>nd</sup> respondent for taking further steps.

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

prp