

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 7564 of 2015 (U)

PETITIONER(S):

**BENCY & CO., EMERALD HOTEL,
MAJOR ROAD, VYTTILA, KOCHI - 682 019,
REPRESENTED BY ITS DIRECTOR (SALES &
OPERATIONS) SRI ABDUL AZEEZ.**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR
SRI.K.UMAMAHESWAR**

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER @,
LUXURY TAX, CLAS TOWER, 2ND FLOOR,
OLD RLY. STATION ROAD, KOCHI - 682 018.**
- 2. THE DY. COMMISSIONER (APPEALS),
COMMERCIAL TAXES, THEVARA, KOCHI, PIN - 682 015.**
- 3. THE INSPECTING ASST. COMMISSIONER,
COMMERCIAL TAXES, KAKKANAD, KOCHI - 682 030.**
- 4. THE BRANCH MANAGER,
HDFC BANK, KADAVANTHRA, KOCHI - 682 020.**

R1 TO R3 BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1: COPY OF ASSESSMENT ORDER DATED 17.07.2014 ISSUED BY THE 1ST RESPONDENT FOR THE MONTH OF FEBRUARY 2014.
- EXT.P1(A): COPY OF ASSESSMENT ORDER DATED 17.07.2014 ISSUED BY THE 1ST RESPONDENT FOR THE MONTH OF MARCH 2014.
- EXT.P1(B): COPY OF ASSESSMENT ORDER DATED 12.11.2014 ISSUED BY THE 1ST RESPONDENT FOR THE MONTH OF APRIL 2014.
- EXT.P1(C): COPY OF ASSESSMENT ORDER DATED 12.11.2014 ISSUED BY THE 1ST RESPONDENT FOR THE MONTH OF MAY 2014.
- EXT.P1(D): COPY OF ASSESSMENT ORDER DATED 12.11.2014 ISSUED BY THE 1ST RESPONDENT FOR THE MONTH OF JUNE 2014.
- EXT.P1(E): COPY OF ASSESSMENT ORDER DATED 12.11.2014 ISSUED BY THE 1ST RESPONDENT FOR THE MONTH OF JULY 2014.
- EXT.P1(F): COPY OF ASSESSMENT ORDER DATED 12.11.2014 ISSUED BY THE 1ST RESPONDENT FOR THE MONTH OF AUGUST 2014.
- EXT.P2: COPY OF APPEAL MEMORANDUM AGAINST EXT.P1.
- EXT.P2(A): COPY OF APPEAL MEMORANDUM AGAINST EXT.P1(A).
- EXT.P2(B): COPY OF APPEAL MEMORANDUM AGAINST EXT.P1(B).
- EXT.P2(C): COPY OF APPEAL MEMORANDUM AGAINST EXT.P1(C).
- EXT.P2(D): COPY OF APPEAL MEMORANDUM AGAINST EXT.P1(D).
- EXT.P2(E): COPY OF APPEAL MEMORANDUM AGAINST EXT.P1(E).
- EXT.P2(F): COPY OF APPEAL MEMORANDUM AGAINST EXT.P1(F).
- EXT.P3: COPY OF STAY PETITION FILED IN EXT.P2 APPEAL.
- EXT.P3(A): COPY OF STAY PETITION FILED IN EXT.P2(A) APPEAL.
- EXT.P3(B): COPY OF STAY PETITION FILED IN EXT.P2(B) APPEAL.
- EXT.P3(C): COPY OF STAY PETITION FILED IN EXT.P2(C) APPEAL.
- EXT.P3(D): COPY OF STAY PETITION FILED IN EXT.P2(D) APPEAL.
- EXT.P3(E): COPY OF STAY PETITION FILED IN EXT.P2(E) APPEAL.
- EXT.P3(F): COPY OF STAY PETITION FILED IN EXT.P2(F) APPEAL.

WP(C).No. 7564 of 2015 (U)

- EXT.P4: COPY OF THE NOTICE DATED 27.09.2014 ISSUED BY THE
3RD RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT. P1.
- EXT.P4(A): COPY OF THE NOTICE DATED 27.09.2014 ISSUED BY THE
3RD RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT. P1(A).
- EXT.P4(B): COPY OF THE NOTICE DATED 27.09.2014 ISSUED BY THE
3RD RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT.P1(B).
- EXT.P4(C): COPY OF THE NOTICE DATED 27.09.2014 ISSUED BY THE
3RD RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT. P1(C).
- EXT.P4(D): COPY OF THE NOTICE DATED 27.09.2014 ISSUED BY THE
3RD RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT. P1(D).
- EXT.P4(E): COPY OF THE NOTICE DATED 27.09.2014 ISSUED BY THE
3RD RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT. P1(E).
- EXT.P4(F): COPY OF THE NOTICE DATED 27.09.2014 ISSUED BY THE
3RD RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT. P1(F).
- EXT.P5: COPY OF LETTER DATED 05.11.2014 OF THE 3RD RESPONDENT
ADDRESSED TO THE 4TH RESPONDENT.
- EXT.P5(A): COPY OF LETTER DATED 31.01.2015 OF THE 3RD RESPONDENT
ADDRESSED TO THE 4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 7564 of 2015

Dated this the 10th day of March, 2015

JUDGMENT

The petitioner is a registered dealer under the Kerala value Added Tax Act, 2003. Against Exts.P1 series of assessment orders passed under the Kerala Tax on Luxuries Act, 1976, the petitioner has preferred Exts.P2 series of appeals, and Exts.P3 series of stay petitions before the 2nd respondent. Exts.P4 series are the revenue recovery notices. It is the case of the petitioner that even before the consideration of the stay petitions, recovery steps have been initiated against him through Exts.P4 series notices, for recovery of the amounts confirmed in the assessment orders.

2. I have heard Sri.S.Anilkumar, the learned counsel appearing for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar I dispose the writ petition with a direction to the 2nd respondent to 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 hearing the petitioner. The order to be passed by the 2nd

respondent shall contain reasons for the decision arrived at by him. Recovery steps pursuant to Exts.P4 series shall be kept in abeyance till such time as the 2nd respondent passes orders, as directed, in Exts.P3 series of stay petitions, and communicates the same to the petitioner.

It is also made clear that the attachment over the bank account, pursuant to Ext.P5, shall be lifted during the pendency of the stay granted in this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE