

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C) .No. 7766 of 2015 (U)

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PETITIONER(S) :

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M/S.WINNER TVS,  
47/917, POWER HOUSE WARD, ALAPPUZHA-688 007,  
A FIRM REPRESENTED BY ITS PARTNER S. RAJEEB.

BY ADVS.SRI.V.DEVANANDA NARASIMHAM  
SRI.D.VENUGOPAL.

RESPONDENT(S) :

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1. THE AIT & COMMERCIAL TAX OFFICER,  
ALAPPUZHA,  
COMMERCIAL TAXES, ALAPPUZHA-678 001.
2. THE DEPUTY COMMISSIONER (APPEALS) ,  
COMMERCIAL TAXES, ASRAMAM,  
KOLLAM - 698 001.
3. THE K.V.A.T, AIT & SALES TAX APPELLATE TRIBUNAL,  
ADDITIONAL BENCH, TAX COMPLEX,  
KOTTAYAM-688 001.
4. THE TAHSILDAR (RR) ,  
AMBALAPPUZHA TALUK,  
ALAPPUZHA-678 001.

BY SENIOR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

ivs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

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- EXHIBIT P1- TRUE COPY OF ANNUAL RETURN E-FILED BEFORE 1ST  
RESPONDENT ON 11-05-11.
- EXHIBIT P2- TRUE COPY OF AUDITED TRADING, P & L ACCOUNT FOR  
2010-11 FILED BEFORE 1ST RESPONDENT.
- EXHIBIT P3- TRUE COPY OF ASSESSMENT ORDER DATED 29-12-12 FOR  
2010-11 ISSUED BY 1ST RESPONDENT TO THE PETITIONER.
- EXHIBIT P4- TRUE COPY OF ACKNOWLEDGEMENT FOR RECEIPT OF MONEY  
DATED 27-03-13 ISSUED BY 4TH RESPONDENT.
- EXHIBIT P5- TRUE COPY OF THE RR NOTICE DTD. 05-04-13 ISSUED U/S 7  
OF THE RR ACT BY 4TH RESPONDENT TO THE PETITIONER.
- EXHIBIT P6- TRUE COPY OF 1ST APPELLATE ORDER DATED 15-10-14 ISSUED  
BY 2ND RESPONDENT TO THE PETITIONER.
- EXHIBIT P7- TRUE COPY OF APPEAL MEMORANDUM IN FORM 31 DATED  
06-03-15 FILED BEFORE 3RD RESPONDENT.
- EXHIBIT P8- TRUE COPY OF INTERLOCUTORY PETITION FOR DELAY ALONG  
WITH AN AFFIDAVIT DTD 06-03-15 FILED BEFORE 3RD  
RESPONDENT.
- EXHIBIT P9- TRUE COPY OF INTERLOCUTORY PETITION FOR STAY ALONG  
WITH AN AFFIDAVIT DATED 06-03-15 FILED BEFORE 3RD  
RESPONDENT.

RESPONDENT(S) ' EXHIBITS :

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NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

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

.....  
W.P.(C).No.7766 of 2015

.....  
Dated this the 11<sup>th</sup> day of March, 2015

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

Against Ext.P6 first appellate order order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P7 appeal, Ext.P8 delay condonation petition and Ext.P9 stay petition before the 3<sup>rd</sup> respondent. 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.P6 first appellate order.

2. I have heard the learned counsel for the petitioner and also the learned Government Pleader for the respondents. It is submitted that 30% of the amounts confirmed against the petitioner have already been paid.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, and taking note of the said submission that 30% of the amounts already paid by the petitioner, I dispose the writ petition with the following

directions:

- i. The 3<sup>rd</sup> respondent shall consider and pass orders on Ext.P8 delay condonation petition and Ext.P7 appeal within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.
- ii. Recovery steps for recovery of amounts confirmed against petitioner by Ext.P6 order shall be kept in abeyance till orders are passed by the 3<sup>rd</sup> respondent as directed above and communicated to the petitioner.
- iii. The order to be passed by the 3<sup>rd</sup> 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.

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

mns

