

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No. 8312 of 2015 (L)

PETITIONER(S) :

**M/S.SAACHI MEDIC,
XIV/317, EACHAMUKKU, XIV,
KAKKANAD, C.S.E.P.Z.P.O, ERNAKULAM,
REPRESENTED BY ITS PROPRIETOR MRS.NEETA MANOJ RAJAWAT.**

BY ADV. SRI.K.J.ABRAHAM

RESPONDENT(S) :

- 1. THE COMMERCIAL TAX OFFICER, II CIRCLE,
KALAMASSERY AT CIVIL STATION KAKKANAD.**
- 2. THE ASSISTANT COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM.**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM, KOCHI- 682 030.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2013-14 UNDER THE KVAT ACT, DATED 11.11.2014.
- EXT.P1(A): TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2013-14 UNDER THE CST ACT, DATED 11.11.2014.
- EXT.P1(B): TRUE COPY OF THE ASSESSMENT ORDER FOR THE PERIOD APRIL TO JUNE 2014 UNDER THE KVAT DATED 11.11.2014.
- EXT.P1(C): TRUE COPY OF THE ASSESSMENT ORDER FOR THE PERIOD APRIL TO JUNE 2014 UNDER THE CST DATED 11.11.2014.
- EXT.P2: TRUE COPY OF THE APPEAL MEMORANDUM IN FORM NO.29 UNDER THE KVAT ACT DATED 23.01.2015 FOR THE YEAR 2013-14.
- EXT.P2(A): TRUE COPY OF THE FORM NO.VII APPEAL MEMORANDUM UNDER THE CST ACT, DATED 23.01.2015 FOR THE YEAR 2013-14.
- EXT.P2(B): TRUE COPY OF THE APPEAL MEMORANDUM IN FORM NO.29 UNDER THE KVAT ACT DATED 23.01.2015 FOR THE PERIOD APRIL TO JUNE 2014.
- EXT.P2(C): TRUE COPY OF THE FROM NO.VIII APPEAL MEMORANDUM UNDER THE CST ACT, DATED 23.01.2015 FOR THE PERIOD APRITL TO JUNE 2014.
- EXT.P3: TRUE COPY OF THE FORM NO.30 STAY PETITION UNDER THE KVAT ACT DATED 23.01.2015 FOR THE YEAR 2013-14.
- EXT.P3(A): TRUE COPY OF THE FORM NO.30 STAY PETITION UNDER THE CST ACT DATED 23.01.2015 FOR THE YEAR 2013-14.
- EXT.P3(B): TRUE COPY OF THE FORM NO.30 STAY PETITION UNDER THE KVAT ACT DATED 23.01.2015 FOR THE PERIOD APRIL TO JUNE 2014.
- EXT.P3(C): TRUE COPY OF THE FORM NO.30 STAY PETITION UNDER THE CST ACT DATED 23.01.2015 FOR THE PERIOD APRIL TO JUNE 2014.
- EXT.P4: TRUE COPY OF THE FORM NO.1 DEMAND NOTICE NO.A5-778/15 DATED 13.03.2015 UNDER THE KVAT ACT.
- EXT.P4(A): TRUE COPY OF THE FORM NO.1 DEMAND NOTICE NO.A5-779/15 DATED 13.03.2015 UNDER THE CST ACT FOR THE YEAR 2013-14.
- EXT.P4(B): TRUE COPY OF THE FORM NO.1 DEMAND NOTICE NO.A5-496/15 DATED 19.02.2015 UNDER THE KVAT ACT FOR THE PERIOD APRIL TO JUNE 2014.

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**EXT.P4(C): TRUE COPY OF THE FORM NO.1 DEMAND NOTICE NO.A5-497/15
DATED 19.02.2015 UNDER CST ACT FOR THE PERIODS APRIL TO
JUNE 2014.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.8312 of 2015

.....
Dated this the 17th day of March, 2015

J U D G M E N T

Against Ext.P1 series of assessment orders under the Kerala Value Added Tax Act and the Central Sales Tax Act, the petitioner has preferred Ext.P2 series of appeals and Ext.P3 series of stay petitions before the 2nd respondent. It is the case of the petitioner that even prior to considering the stay petition by the 2nd respondent, recovery steps have been initiated against him through Ext.P4 series of demand notices, for recovery of the amounts confirmed by Ext.P1 series of assessment orders.

2. I have heard the learned counsel for the petitioner and also 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 hearing the petitioner.

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 adverting 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

