

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 8759 of 2015 (T)

PETITIONER:

**CENTURY SHIPYARD PVT. LTD V/151 A,
PANAVALLY, CHERTHALA-688526,
ALAPPUZHA DISTRICT, REPRESENTED BY ITS
DIRECTOR P.V.XAVIER, AGED 68 YEARS,
S/O. LATE VAKKO, RESIDING AT 24/418C,
PALAYIL HOUSE, EDAKOCHI.**

BY ADV. SRI.P.SATHISAN

RESPONDENT(S):

- 1. AIT & COMMERCIAL TAX OFFICER,
OLD NH, KUTHIATHODU, KERALA - 688 533.**
- 2. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES COMPLEX,
PERUMANOOR, ERNAKULAM - 682 015.**
- 3. DISTRICT COLLECTOR, COLLECTORATE,
KAKKANAD, ERNAKULAM - 682 030.**
- 4. INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAX,
MELUVALLIL BUILDING,
NEAR STONE BRIDGE, ALAPPUZHA - 688011.**
- 5. GREAT SEA SHIPPING PVT. LTD.
REPRESENTED BY ITS MANAGING DIRECTOR,
N.J.THOMAS, 359/D, ORICOMPIL COMPLEX,
NETTOOR P.O., KOCHI-682040.**

R1 TO R4 BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1- COPY OF RELEVANT EXTRACT OF THE AGREEMENT FOR BUILDING, LAUNCHING AND SALE OF THE VESSEL BETWEEN THE PARTIES DATED 26-09-2011.
- EXHIBIT P2- COPY OF THE COMPLAINT DATED 20-2-2014 FILED BEFORE THE POLICE.
- EXHIBIT P3- COPY OF THE ACKNOWLEDGEMENT DATED 20-2-14 OF COMPLAINT FILED BEFORE THE POLICE.
- EXHIBIT P4- COPY OF THE INTERIM ORDER IN O.P. 194/14 DATED 25-3-14 OF HON'BLE DISTRICT COURT ERNAKULAM.
- EXHIBIT P5- COPY OF THE CLAIM PETITION FILED BEFORE ARIBTRAL TRIBUNAL ERNAKULAM.
- EXHIBIT P6- COPY OF THE NOTICE ISSUED BY THE ASSESSING OFFICER.
- EXHIBIT P7- REPLY SENT BY THE PETITIONER TO THE NOTICE ISSUED BY THE ASSESSING OFFICER.
- EXHIBIT P8- COPY OF THE ORDER DATED 18-2-15 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P9- COPY OF THE APPEAL FILED BEFORE THE DEPUTY COMMISSIONER.
- EXHIBIT P10- COPY OF STAY PETITION FILED BEFORE THE DEPUTY COMMISSIONER.
- EXHIBIT P11- COPY OF REVENUE RECOVERY NOTICE ISSUED BY THE 4TH RESPONDENT DATED 11.2.15.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.8759 of 2015
.....

Dated this the 19th day of March, 2015

J U D G M E N T

Against Ext.P8 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P9 appeal and Ext.P10 stay petition 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.P11 revenue recovery notice, for recovery of the amounts confirmed by Ext.P11 assessment order.

2. I have heard the learned counsel for the petitioner and 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.P10 stay petition 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.P11 notice 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

