

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 9229 of 2015 (C)

PETITIONER :

**K.T. SHAJI
M/S. KOCHUMUTTATHU TRADERS
MAMPAD, NILAMBUR
MALAPPURAM.**

**BY ADVS. SRI.N.MURALEEDHARAN NAIR
SRI. V.K. SHAMSUDHEEN**

RESPONDENT(S) :

- 1. THE INTELLIGENCE OFFICER,
SQUAD NO.V., COMMERCIAL TAXES
MALAPPURAM AT NILAMBUR – 679 329.**
- 2. THE ASSISTANT COMMISSIONER (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES
PALAKKAD – 678 001.**
- 3. THE INSPECTING ASSISTANT COMMISSIONER
DEPARTMENT OF COMMERCIAL TAXES
MALAPPURAM AT MANJERI – 676 121.**

R1 TO R3 BY SR. GOVT. PLEADER SMT. SHOBA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE PENALTY ORDER PASSED BY 1ST RESPONDENT FOR THE YEAR 2011-12 DATED 15.5.2014.
- EXT.P2 COPY OF THE PENALTY ORDER PASSED BY 1ST RESPONDENT FOR THE YEAR 2012-13 DATED 15.5.2014.
- EXT.P3 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2011-12 DATED 5-9-2014.
- EXT.P4 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2012-13 DATED 5-9-2014.
- EXT.P5 COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2011-12 DATED 5-9-2014.
- EXT.P6 COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2012-13 DATED 5-9-2014.
- EXT.P7 COPY OF THE ORDER PASSED BY 2ND RESPONDENT.
- EXT.P8 COPY OF THE DEMAND NOTICE IN FORM NO. 12 ISSUED BY 1ST RESPONDENT FOR THE YEAR 2011-12 DATED 15.5.2014.
- EXT.P9 COPY OF THE DEMAND NOTICE IN FORM NO. 12 ISSUED BY 1ST RESPONDENT FOR THE YEAR 2012-13 DATED 15.5.2014.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 9229 of 2015

Dated this the 24th day of March, 2015

JUDGMENT

The petitioner is an assessee under the Kerala Value Added Tax Act, 2003, hereinafter referred to as 'KVAT Act'. Against Exts.P1 and P2 orders of penalty passed under the KVAT Act, the petitioner preferred Exts.P3 and P4 appeals and Exts.P5 and P6 stay petitions before the 2nd respondent. The 2nd respondent posted the stay petition for hearing, on which date, the petitioner was not represented before the 2nd respondent. Accordingly, by Ext.P7 order, the stay petitions were dismissed by the 2nd respondent. It is aggrieved by Ext.P7 order, which dismissed the stay petition preferred by the petitioner, the petitioner preferred the writ petition.

2. I have heard the learned counsel appearing for the petitioner as also 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, and taking into account the fact that out of the total penalty amounts confirmed against the petitioner of Rs.2,91,337/-, the petitioner has already

effected the payment of Rs.75,892/- during the pendency of the proceedings, I dispose the writ petition with a direction to the 2nd respondent to consider and pass orders on Exts.P3 and P4 appeals preferred by the petitioner within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. The proceedings for recovery of amounts confirmed against the petitioner by Exts.P1 and P2 orders, shall be kept in abeyance till such time as the 2nd respondent passes orders, as directed, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE