

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 9246 of 2015 (E)

PETITIONER(S):

**M/S. ST.ANTONY'S CARS (P) LTD.,
XII/268, MUNDAKKAL, S.N. COLLEGE JUNCTION,
KOLLAM-691 001, REPRESENTED BY ITS
MANAGING DIRECTOR, SRI.HAIMER REYNOLD.**

BY ADV. SRI.TOMSON T.EMMANUEL.

RESPONDENT(S):

- 1. ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, SPECIAL CIRCLE,
KOLLAM-691 002.**
- 2. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAX COMPLEX,
ASRAMAM, KOLLAM-691 002.**
- 3. THE TAHSILDAR, TALUK OFFICE,
CIVIL STATION, KOLLAM-691 001.**

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE ASSESSMENT ORDER DATED 25/10/2013 ISSUED TO THE PETITIONER BY THE 1ST RESPONDENT FOR 2012-13 UNDER THE KVAT ACT, UNDER THE SCRUTINY WITH KVATIS, WITHOUT VERIFYING THE BOOKS OF ACCOUNTS OF THE PETITIONER.
- EXT.P1A COPY OF THE ORDER PASSED U/S. 66 OF KVAT ACT AGAINST AN APPLICATION FILED ON THE PRESUMPTION THAT PETITIONER ALREADY INVOKED APPEAL AGAINST EXT.P1 ORDER.
- EXT.P2 COPY OF THE JUDGMENT DATED 19/02/2015 IN WP(C).NO.5193/2015 PASSED BY THIS HONOURABLE COURT IN RE-DELEGATING PETITIONER WITH APPELLATE REMEDY AGAINST EXT.P1 AND P1(A).
- EXT.P3 COPY OF THE APPEAL DATED 19/03/2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT CHALLENGING EXT.P1A AND P1(A) ORDER FOR 2012-13, AS DIRECTED BY THIS HON'BLE COURT.
- EXT.P4 COPY OF THE PETITION DATED 19/03/2015 FOR CONDONING DELAY IN FILING THE APPEAL SUBMITTED BY THE PETITIONER ALONG WITH EXT.P3 APPEAL, BEFORE THE 2ND RESPONDENT.
- EXT.P5 COPY OF THE STAY PETITION DATED 19/03/2015 SUBMITTED BY THE PETITIONER ALONG WITH EXT.P3 APPEAL, BEFORE THE 2ND RESPONDENT.
- EXT.P6 COPY OF THE CIRCULAR NO.C1-45370/09/CT DATED 16/11/2009 ISSUED BY THE COMMISSIONER OF COMMERCIAL TAXES, PRODUCED ALONG WITH EXT.P5 STAY PETITION, BEFORE THE 2ND RESPONDENT.
- EXT.P7 COPY OF THE REVENUE NOTICE IN FORM NO.1 DATED 13/01/2014 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT, PURSUANT TO THE DEMAND IN EXT.P1.
- EXT.P7A COPY OF THE REVENUE RECOVERY NOTICE IN FORM NO.10 DATED 13/01/2014 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT, PURSUANT TO THE DEMAND IN EXT.P1.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.9246 OF 2015 (E)

Dated this the 23rd day of March, 2015

J U D G M E N T

Against Ext.P1 assessment order under the KVAT Act, the petitioner had preferred Ext.P3 appeal, together with Ext.P4 petition for condonation of delay, and Ext.P5 stay petition, before the 2nd respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are taken by the respondents through Exts.P7 and P7(a) revenue recovery notices as confirmed by Ext.P1 assessment order.

2. I have heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing 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:

1. The 2nd respondent shall consider and pass orders on Exts.P4 delay condonation petition and Ext.P5 stay

petition within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

2.Recovery steps for recovery of amounts confirmed against petitioner pursuant to Ext.P1 assessment order shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp