

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. 9287 of 2015 (I)

PETITIONER(S):

**ABRAHAM K. THOMAS,
S/O.MATHEW ABRAHAM,
KARIMKUTTIYIL,
ANGADI.P.O., RANNY -689 674.**

**BY ADVS.SRI.PHILIP J.VETTICKATTU
SRI.B.PREMNATH (E)**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER (WORKS CONTRACT),
COMMERCIAL TAXES, PATHANAMTHITTA -689 645.**
- 2. THE TAHSILDAR,
REVENUE RECOVERY, TALUK OFFICE,
RANNI -689 674, PATHANAMTHITTA.**
- 3. THE KERALA VALUE ADDED TAX/AGRICULTURAL INCOME TAX & SALES TAX
APPELLATE TRIBUNAL, ADDITIONAL BENCH, TRIVANDRUM, (CAMP SITTING
AT KOLLAM,)**

R1 TO R3 BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

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

vmr.

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1- TRUE PHOTOSTAT COPY OF ASSESSMENT ORDER DATED 27/03/2010 ISSUED BY 1ST RESPONDENT.**
- EXHIBIT P2- TRUE PHOTOSTAT COPY OF THE ORDER DATED 27/03/2010 ISSUED BY THE 1ST RESPONDENT.**
- EXHIBIT P3- TRUE PHOTOSTAT COPY OF CHELLAN SHOWING REMITTANCE OF RS.4,04,316/- FOR THE PERIOD 2006-07.**
- EXHIBIT P4- TRUE PHOTOSTAT COPY OF THE CHELLAN SHOWING REMITTANCE OF RS.7 LAKHS FOR THE PRIOD 2007-08.**
- EXHIBIT P5- TRUE PHOTOSTAT COPY OF JUDGMENT DATED 16/03/2011 IN WP(C)NO.8254/2011 OF THIS HONOURABLE COURT.**
- EXHIBIT P6- TRUE PHOTOSTAT COPY OF JUDGMENT DATED 14/06/2011 IN WP(C)NO.15669/2011 OF THIS HONOURABLE COURT.**
- EXHIBIT P7- TRUE PHOTOSTAT COPY OF CHELLAN SHOWING REMITTANCE OF RS.68,436/- FOR THE PERIOD 2006-07.**
- EXHIBIT P8- TRUE PHOTOSTAT COPY OF CHELLAN SHOWING REMITTANCE OF RS.1,02,569/- FOR THE PERIOD 2007-08.**
- EXHIBIT P9- TRUE PHTOSTAT COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE APPELLATE TRIBUNAL CHALLENGING ASSESSMENT FOR THE PERIOD 2006-2007.**
- EXHIBIT P10- TRUE PHOTOSTAT COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE APPELLATE TRIBUNAL CHALLENGING ASSESSMENT FOR THE PERIOD 2007-2008.**
- EXHIBIT P11- TRUE COPY OF ORDER OF THE TRIBUNAL DISMISSING THE APPEAL FILED CHALLENGING THE ASSESSMENT ORDER FOR THE PERIOD 2006-2007.**
- EXHIBIT P12- TRUE COPY OF THE TRIBUNAL DISMISSING THE APPEAL FILED CHALLENGING THE ASSESSMENT ORDER FOR THE PERIOD 2007-2008.**
- EXHIBIT P13- TRUE COPY OF SHOW CASE NOTICE FOR THE PERIOD 2006-2007 & 2007-2008.**
- EXHIBIT P14- TRUE COPY OF APPLICATION FOR RESTORATION OF APPEAL FILED CHALLENGING THE ASSESSMENT ORDER FOR THE PERIOD 2006-2007.**

WP(C).No. 9287 of 2015 (I)

**EXHIBIT P15- TRUE COPY OF APPLICATION FOR RESTORATION OF APPEAL FILED
CHALLENGING THE ASSESSMENT ORDER FOR THE PERIOD
2007 - 2008.**

RESPONDENTS EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

vmr

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 9287 of 2015

Dated this the 24th day of March, 2015

JUDGMENT

Against Exts.P11 and P12 orders passed by the 3rd respondent Tribunal, dismissing Exts.P9 and P10 appeals preferred by the petitioner, the petitioner has preferred Exts.P14 and P15 restoration applications, which are stated to be pending consideration before the 3rd respondent Tribunal. The apprehension of the petitioner is that even before considering the restoration applications, recovery steps will be initiated against the petitioner for recovery of amounts confirmed against the petitioner by the orders, against which the appeals were filed before the 3rd respondent Tribunal.

2. I have heard the learned counsel for the petitioner and 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, I direct the 3rd respondent Tribunal to consider and pass orders on Exts.P14 and P15 restoration applications, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

Taking note of the submission of counsel for the petitioner that 1/3rd of the amount confirmed against the petitioner, by the orders against which the appeals were filed, has already been paid by the petitioner during the pendency of the proceedings, I make it clear that recovery steps for recovery of the amounts confirmed against the petitioner by the orders, against which the appeals were filed before the Tribunal, shall be kept in abeyance, till such time as the orders are passed by the 3rd respondent Tribunal, as directed above, and communicated to the petitioner.

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das