

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 9543 of 2015 (P)

PETITIONER(S):

**ABRAHAM VARGHESE, M/S.RONY TIMBER,
POOZHIKKADU, KUSASSANADU-689 512.**

**BY ADVS.SRI.ASWIN GOPAKUMAR
SRI.ANWIN GOPAKUMAR
SMT.KALA G.NAMBIAR
SRI.K.AMAL NATH NAIK
SRI.ARJUN RADHAKRISHNAN NAIR
SMT.ANUSREE SURESH**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY (TAXES),
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOLLAM - 691 001.**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
OF COMMERCIAL TAXES, PATHANAMTHITTA,
KOZHENCHERRY - 689 641.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 9543 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: A TRUE COPY OF THE ORDER NO.CR 16 & 17/09-10 DATED 18.11.09
PASSED BY THE INTELLIGENCE OFFICER, SQUAD NO.II,
PATHANAMTHITTA AT THIRUVALLA.**

**EXHIBIT P2: A TRUE COPY OF THE NOTICE NO.32030324065/2009-10 DATED 7.10.2014
ISSUED UNDER SECTION 25(1) OF THE KVAT ACT, 2003.**

**EXHIBIT P3: A TRUE COPY OF THE REPLY TO NOTICE NO. 32030324065/2009-10
DATED 7.11.2014.**

**EXHIBIT P4: A TRUE COPY OF THE ORDER NO.32030324065/2009-10
DATED 26.11.2014 PASSED BY THE COMMERCIAL TAX OFFICER.**

**EXHIBIT P5: A TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 10.2.2015
ISSUED BY THE 3RD RESPONDENT.**

**EXHIBIT P6: A TRUE COPY OF THE APPEAL TO THE 2ND RESPONDENT FILED ON
20.3.2015.**

**EXHIBIT P7: TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR CONDONATION
OF DELAY FILED ON 20.3.2015.**

**EXHIBIT P8: TRUE COPY OF INTERLOCUTORY APPLICATION FOR STAY OF
RECOVERY PROCEEDINGS FILED ON 23.3.2015.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 9543 of 2015 (P)

.....
Dated this the 25th day of March, 2015

JUDGMENT

The petitioner is a registered dealer under the Kerala Value Added Tax Act, 2003. Against Ext.P4 assessment order, the petitioner preferred Ext.P6 appeal, along with Ext.P7 delay condonation petition and Ext.P8 stay petition before the 2nd respondent. It is the case of the petitioner that even before the consideration of the stay petitions by the 2nd respondent, recovery steps have been initiated against him through Ext.P5 revenue recovery notice, for recovery of the amounts confirmed in the assessment order.

2.I have heard Sri.Aswin Gopakumar the learned counsel appearing for petitioner and Smt.Sobha Annamma Eappen, learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with a direction to the 2nd respondent to consider and pass orders on Ext.P7 delay condonation petition and Ext.P8 stay petition, preferred by the petitioner before him, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. The order to be passed by the 2nd

respondent shall contain reasons for the decision arrived at by him.

Recovery steps, pursuant to Ext.P5 revenue recovery notice, shall be kept in abeyance, till such time as the 2nd respondent passes orders, as directed above, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/27/03/