

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937**

**WP(C).No. 9720 of 2015 (L)**  
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**PETITIONER:**  
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**SHAJI O, PROPRIETOR,  
NEJIL PHARMACEUTICAL DISTRIBUTORS,  
PARAPPANANGADI, MALAPPURAM DISTRICT.**

**BY ADV. SRI.K.K.MOHAMED RAVUF**

**RESPONDENT(S):**  
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- 1. THE COMMERCIAL TAX OFFICER - I,  
TIRURANGADI,  
MALAPPURAM DISTRICT - 676 306.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),  
ERNAKULAM - 682035.**
- 3. THE DEPUTY TAHSILDAR (RR),  
TIRURANGADI TALUK,  
MALAPPURAM DISTRICT - 676 306.**

**BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**mbr/**

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1- TRUE COPY OF THE ASSESSMENT ORDER FOR ASSESSMENT YEAR 2011-12 ISSUED BY THE 1ST RESPONDENT.
- P2- TRUE COPY OF THE APPEAL MEMORANDUM DATED 15.3.2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- P3- TRUE COPY OF THE STAY PETITION DATED 15.3.2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- P4- TRUE COPY OF THE DELAY CONDONATION PETITION DATED 15.3.2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- P5- TRUE COPY OF THE REVENUE RECOVERY NOTICES DATED 20.2.2014 ISSUED BY THE 3RD RESPONDENT.
- P6- TRUE COPY OF THE JUDGMENT DATED 20.3.2014 IN WP(C) NO.8122/2014 OF THIS HONOURABLE COURT.
- P7- TRUE COPY OF THE ORDER DATED 10.12.2014 OF THE 2ND RESPONDENT.
- P8- TRUE COPY OF THE DEMAND DRAFT.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C) No. 9720 of 2015 (L)**  
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Dated this the 6<sup>th</sup> day of April, 2015

**JUDGMENT**

The grievance of the petitioner in the writ petition is that, while pursuant to Ext.P7 order that was passed by the 2<sup>nd</sup> respondent in a stay petition filed along with an appeal against the assessment order under the Kerala Value Added Tax Act, 2003, he was required to pay 30% of the amounts confirmed against him by the assessment order, as a condition for the grant of stay by the 2<sup>nd</sup> respondent, and he had, pursuant to revenue recovery proceedings initiated against him, approached the 1<sup>st</sup> respondent with the amounts directed to be deposited under Ext.P7, the 1<sup>st</sup> respondent refused to accept the same stating that the matter had already been referred to the 3<sup>rd</sup> respondent under the Kerala Revenue Recovery Act, 1968.

2. It is the case of the petitioner that, thereafter, he approached the 3<sup>rd</sup> respondent with the said amount, when he was told that the 3<sup>rd</sup> respondent also could not accept the said amount, except with the permission of the 1<sup>st</sup> respondent. Thus, the grievance of the petitioner is that, while he wants to comply with the conditions in Ext.P7 order, the respondents are not letting him comply with the said directions.
3. I have heard Sri.K.K.Mohamed Ravuf, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

4. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, and in particular the submission of the learned Government Pleader on instructions that, the petitioner can make the payment of 30% of the demand confirmed against him by assessment order in question, pursuant to Ext.P7 order, before the 1<sup>st</sup> respondent, I dispose the writ petition with a direction to the 1<sup>st</sup> respondent to accept Ext.P8 demand draft offered by the petitioner, for the aforesaid amount, in favour of the 1<sup>st</sup> respondent, and to treat the same as compliance by the petitioner with the requirement of payment of 30% of the demand as contemplated in Ext.P7 order.

5. I make it clear that, the petitioner will also have to comply with the other directions in Ext.P7 order for the purposes of the stay contemplated in the said order to be effective. On the petitioner furnishing the demand draft to the 1<sup>st</sup> respondent immediately, the 1<sup>st</sup> respondent shall accept the same and issue a receipt to the petitioner for the same forthwith. The petitioner shall comply with the requirement of furnishing security as contemplated in Ext.P7 order within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-  
**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

AMV/06/04/