

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

WP(C).No. 9727 of 2015 (M)

PETITIONER:

**NOUSHAD S.S., PROPRIETOR,
GOLDEN THREADS FACTORY, PLOT NO.81, 33/241,
MAJOR INDUSTRIAL ESTATE, S.KALAMASSERY.**

**BY ADVS.SRI.C.A.SADASIVAN
SRI.JOY P JOSE
SRI.K.N.KRISHNAN NAMBOOTHIRI
SRI.C.V.SASI
SRI.K.JAYAMOHANAN PILLAI
SMT.P.S.SETHULEKSHMY**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY(TAXES)
GOVT. SECRETARIAT,
THIRUVANANTHAPURAM - 690 001.**
- 2. DY.COMMISSIONER(APPEALS),
COMMERCIAL TAXES, ERNAKULAM - 682 015.**
- 3. COMMERCIAL TAX OFFICER,
1ST CIRCLE, KALAMASSERY, PIN - 683 104.**
- 4. DEPUTY TAHSILDAR(REVENUE RECOVERY),
KANAYANNUR TALUK, ERNAKULAM, PIN - 682 011.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 9727 of 2015 (M)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 : TRUE COPY OF ASSESSMENT ORDER DATED 31.7.2014.

**EXHIBIT P2 : TRUE COPY OF THE APPEAL MEMORANDUM FILED IN FORM 30
DATED 9.12.2014.**

**EXHIBIT P3 : TRUE COPY OF THE PETITION AND AFFIDAVIT FOR STAY OF
COLLECTION FILED DATED 9.12.2014.**

**EXHIBIT P4 : TRUE COPY OF THE PETITION AND AFFIDAVIT FOR CONDONATION OF
DELAY FILED DATED 9.12.2014.**

**EXHIBIT P5 : TRUE COPY OF THE RECOVERY NOTICE ISSUED BY
4TH RESPONDENT DATED 21.1.2015.**

**EXHIBIT P6 : TRUE COPY OF THE POSTING NOTICE DATED 10.3.2015 POSTING
HEARING ON 19.3.2015 ON PETITION FOR CONDONATION OF DELAY.**

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 9727 of 2015

Dated this the 26th day of March, 2015

JUDGMENT

The Petitioner is a registered dealer under the Kerala Value Added Tax Act, 2003, hereinafter referred to as 'KVAT Act'. Against Ext.P1 of assessment order passed under the KVAT Act, the petitioner preferred Ext.P2 appeal, Ext.P3 stay petition and Ext.P4 delay condonation petition before the 2nd respondent. It is the case of the petitioner that even before consideration of the stay petition 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 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, I dispose the writ petition with a direction to the 2nd respondent to consider and pass orders on Ext.P3 stay petition and Ext.P4 delay condonation 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 recovery steps pursuant to Ext.P5, for recovery of amounts confirmed against the petitioner by Ext.P1 order, shall be kept in abeyance till such time as the 2nd respondent passes orders, as directed, in Ext.P3 stay petition and Ext.P4 delay condonation petition, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das