

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

WP(C).No. 9942 of 2015 (P)

PETITIONER(S):

**M/S.ASHWATHY REALITY PRIVATE LIMITED,
REGISTERED OFFICE AT MUMBAI,
EMPIRE MALL ROOM XIII/297 H, OLAKETTIAMBALAM,
MAVELIKKARA-690 510, ALAPPUZHA DISTRICT,
REPRESENTED BY ITS DIRECTOR, K.RADHAKRISHNA PILLAI.**

**BY ADVS.SRI.V.DEVANANDA NARASIMHAM
SRI.P.H.RIYAS**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER (WC),
COMMERCIAL TAXES, ALAPPUZHA - 688 001.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES ASRAMOM (P.O), KOLLAM-691 012.**
- 3. THE K VAT APPELLATE TRIBUNAL,
SALES TAX COMPLEX, KOTTAYAM.**
- 4. THE DEPUTY TAHSILDAR (RR),
TALUK OFFICE, MAVELIKKARA.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P1 - TRUE COPY OF THE CERTIFICATE OF INCORPORATION DATED 16.02.2010
ISSUED BY THE ASSISTANT REGISTRAR OF COMPANIES, MUMBAI TO THE
PETITIONER.

EXT. P2 - TRUE COPY OF THE SALE DEED DATED 07-11-2009 OBTAINED BY
MRS.GEETHA R. PILLAI.

EXT. P3- TRUE COPY OF THE LETTER DATED 07-08-13 ALONG WITH ENCUMBRANCE
CERTIFICATE OF THE REGISTRATION DEPARTMENT DATED 11-03-13
FORWARDED BY 1ST RESPONDENT TO PETITIONER.

EXT. P4 - TRUE COPY OF THE ASSESSMENT ORDER DATED 10-09-13 ISSUED BY
1ST RESPONDENT TO PETITIONER COMPANY.

EXT. P5 - TRUE COPY OF CONDITIONAL STAY ORDER DATED 07-11-13 PASSED BY
2ND RESPONDENT AND ISSUED TO THE PETITIONER.

EXT. P6 - TRUE COPY OF THE JUDGMENT DATED 19-11-13 ISSUED IN WP(C) NO.28368
OF 2013.

EXT. P7 - TRUE COPY OF THE CHALLAN NO.60 DATED 20-12-13 ISSUED TO THE
PETITIONER.

EXT. P8 - TRUE COPY OF THE 1ST APPELLATE ORDER DATED 04-12-14 PASSED BY
2ND RESPONDENT AND ISSUED TO THE PETITIONER.

EXT. P9- TRUE COPY OF THE APPEAL MEMORANDUM DTD.23-02-15 FILED BY
PETITIONER BEFORE 3RD RESPONDENT.

EXT. P10 - TRUE COPY OF THE STAY PETITION CUM AFFIDAVIT DATED 23-02-15 FILED
BY PETITIONER BEFORE 3RD RESPONDENT.

EXT. P11 - TRUE COPY OF THE RR NOTICES DATED 20-03-15 FOR 2012-13 ISSUED BY
4TH RESPONDENT TO PETITIONER COMPANY.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.9942 of 2015

.....
Dated this the 27th day of March, 2015

J U D G M E N T

Against Ext.P8 1st appellate order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P9 appeal and Ext.P10 stay petition before the 3rd respondent. It is the case of the petitioner that even prior to considering the stay petition by the 3rd respondent, recovery steps have been initiated against him through Ext.P11 revenue recovery notice, for recovery of the amounts confirmed by Ext.P8 1st appellate order.

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

- i. The 3rd respondent shall consider and pass orders on Ext.P10 stay petition within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps pursuant to Ext.P11 demand notice shall be kept in abeyance till orders are passed by the 3rd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 3rd respondent shall be a reasoned one advertent to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal/revision.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

