

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. 9949 of 2015 (P)

PETITIONER:

**EXCEL GOLD JEWELLERY MANUFACTURES,
TRADE CENTRE, ELATHUR, KOZHIKODE - 673303.
REPRESENTED BY ITS PARTNER, M.M.IMBICHIALI,
NADAKKAL HOUSE, P.O.URALLOOR, KOYILANDY,
KOZHIKODE, PIN - 673 620.**

**BY ADVS.SRI.T.G.MADHAVANUNNI
SRI.C.S.ARUN SHANKAR
SMT.REVATHY P.NAIR**

RESPONDENT(S):

- 1. THE COMMISSIONER OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM - 695 033.**
- 2. THE COMMERCIAL TAX OFFICER, IV CIRCLE,
COMMERCIAL TAXES, KOZHIKODE - 673 006.**
- 3. THE SALES TAX APPELLATE TRIBUNAL,
ADDITIONAL BENCH, NOORANI, PALAKKAD - 678 004.**
- 4. THE DEPUTY TAHSILDAR (REVENUE RECOVERY)
RVENUE RECOVERY OFFICE, VATAKARA,
KOZHIKODE - 673 101.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

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

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1- TRUE COPY OF THE ASSESSMENT ORDER 30.9.2013 ISSUED BY THE
2ND RESPONDENT FOR THE PERIOD 2006-07.
- P2- TRUE COPY OF THE MODIFIED ORDER PASSED BY THE ASSISTANT
COMMISSIONER (APPEALS), KOZHIKODE DATED 24.3.2014 FOR THE PERIOD
2005-06.
- P3- TRUE COPY OF THE APPEAL DATED 22.4.2014 FILED BY THE PETITIONER
FOR THE PERIOD 2006-2007.
- P4- TRUE COPY OF THE PETITION DATED 22.4.2014 FOR STAY OF COLLECTION OF
TAX & INTEREST FOR THE YEAR 2006-2007.
- P5- TRUE COPY OF REVENUE RECOVER NOTICE DATED 16.3.2015 ISSUED BY THE
4TH RESPONDENT FOR RECOVERY OF THE AMOUNT OF RS 44,10,335/-
DEMANDED FOR THE YEAR 2006-07.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.9949 of 2015
.....

Dated this the 27th day of March, 2015

J U D G M E N T

Against Ext.P2 modified order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P3 appeal and Ext.P4 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.P5 revenue recovery notice, for recovery of the amounts confirmed by Ext.P2 modified orders.

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.P4 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.P5 revenue

recovery 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

