

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. 10034 of 2015 (D)

PETITIONER(S):

**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),
REVENUE RECOVERY OFFICE, VATAKARA,
KOZHIKODE 673 101.**

R 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:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ASSESSMENT ORDER 31.7.2013 ISSUED BY THE 2ND RESPONDENT FOR THE PERIOD 2005-06.

EXT.P2: COPY OF THE MODIFIED ORDER PASSED BY THE ASSISTANT COMMISSIONER (APPEALS), KOZHIKODE DATED 24.3.2015.

EXT.P3: COPY OF THE APPEAL DATED 22.4.2014 FILED BY THE PETITIONER FOR THE PERIOD 2005-06.

EXT.P4: COPY OF THE PETITION DATED 22.4.2014 FOR STAY OF COLLECTION OF TAX AND INTEREST FOR THE YEAR 2005-06.

EXT.P5: COPY OF THE REVENUE RECOVERY NOTICE DATED 16.3.2015 ISSUED BY THE 4TH RESPONDENT FOR RECOVERY OF THE AMOUNT OF RS.27,0,561/- DEMANDED FOR THE YEAR 2005-06.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.10034 OF 2015 (D)

Dated this the 27th day of March, 2015

J U D G M E N T

Against Ext.P2 modified assessment order under the KVAT Act, the petitioner had preferred Ext.P3 appeal together with Ext.P4 stay petition before the 3rd respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are taken by the respondents through Ext.P5 revenue recovery notice as confirmed by Ext.P2 modified assessment order.

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

1. 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.

2.Recovery steps for recovery of amounts confirmed against petitioner pursuant to Ext.P2 modified assessment order shall be kept in abeyance till orders are passed by the 3rd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp