

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. 11172 of 2015 (V)

PETITIONER:

**ASSAM PLY BOARDS, ALLAPPARA.P.O.,
PERUMBAVOOR, ERNAKULAM DISTRICT,
REPRESENTED BY ITS MANAGING PARTNER,
M.K.HASSAINAR, AGED 56 YEARS, S/O.KUNJUMHAMMED.**

**BY ADVS.SRI.K.M.FIROZ
SMT.M.SHAJNA
SRI.S.KANNAN**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES DEPARTMENT,
1ST CIRCLE, PERUMBAVOOR - 6783 545.**
- 2. THE ASSISTANT COMMISSIONER(APPEALS),
COMMERCIAL TAXES DEPARTMENT,
ERNAKULAM - 682 015.**
- 3. THE DEPUTY COMMISSIONER(APPEALS),
COMMERCIAL TAXES DEPARTMENT, ERNAKULAM - 682 015.**
- 4. THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES DEPARTMENT, ERNAKULAM - 682 015.**
- 5. THE INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
MUVATTUPUZHA - 683 572.**
- 6. THE INTELLIGENCE OFFICER(IB), ERNAKULAM,
OFFICE OF THE DEPUTY COMMISSIONER,
INTELLIGENCE, COMMERCIAL TAXES,
ERNAKULAM AT EDAPPALLY - 682 025.**

BY PUBLIC PROSECUTOR 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:

EXHIBIT P1 : A TRUE COPY OF THE ASSESSMENT ORDER DATED 9.1.15 FOR THE ASSESSMENT YEAR 2002-2003 ALONG WITH DEMAND NOTICE ISSUED BY THE 2ND RESPONDENT.

EXT. P1(A): A TRUE COPY OF THE PENALTY ORDER DATED 18.2.2014 ISSUED BY THE 6TH RESPONDENT FOR THE ASSESSMENT YEAR 2006-2007.

EXHIBIT P2: A TRUE COPY OF THE APPEAL MEMORANDUM DATED 16.2.2015 BEFORE THE 2ND RESPONDENT THROUGH THE 3RD RESPONDENT.

EXT. P2(A) : A TRUE COPY OF THE PETITION DATED 20.4.2014 FILED BEFORE THE 3RD RESPONDENT AND PENDING BEFORE THE 4TH RESPONDENT.

EXHIBIT P3 : A TRUE COPY OF THE STAY PETITION DATED 16.2.2015 FILED IN EXT.P2 APPEAL BY THE PETITIONER.

EXT. P3(A) : A TRUE COPY OF THE STAY PETITION DATED 20.4.2014 FILED IN EXT.P2(A) APPEAL BY THE PETITIONER.

EXHIBIT P4 : A TRUE COPY OF THE DEMAND NOTICE DATED 9.3.2015 UNDER REVENUE RECOVERY ACT ISSUED BY THE 5TH RESPONDENT IN RESPECT OF ASSESSMENT YEAR 2002-2003.

EXT. P4(A) : A TRUE COPY OF THE DEMAND NOTICE DATED 9.3.2015 UNDER REVENUE RECOVERY ACT ISSUED BY THE 5TH RESPONDENT IN RESPECT OF ASSESSMENT YEAR 2006-2007.

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 11172 of 2015 (V)

.....
Dated this the 6th day of April, 2015

JUDGMENT

The petitioner is a registered dealer under the Kerala Value Added Tax Act, 2003, and Central Sales Tax Act on the files of the 1st respondent. Against Ext.P1 assessment order and P1(a) penalty order, the petitioner has preferred Exts.P2 and P2(a) appeal and revision petitions respectively before the 2nd and 4th respondents. Along with appeal and revisions, the petitioner has also preferred Exts.P3 and P3(a) stay petitions before the said respondents. It is the case of the petitioner that even before the consideration of the stay petition by the 2nd and 4th respondents, recovery steps are sought to be pursued for recovery of the amounts confirmed by Exts.P1 and P1(a) assessment and penalty orders respectively.

2. I have heard Sri.Firoz K.M., learned counsel appearing for petitioner and Smt.Sobha Annamma Eappen, learned Government Pleader 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 and 4th respondents to consider and pass orders on Exts.P3 and P3(a) stay petitions 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 order to be passed by the 2nd and 4th respondents shall contain reasons for the decision arrived at by him.

Recovery steps for recovery of amounts pursuant to Exts.P1 and P1(a) assessment and penalty orders, shall be kept in abeyance till such time as the 2nd and 4th respondents pass orders, as directed, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/06/04/