

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No. 11218 of 2015 (B)

PETITIONER(S):

**ABOOBACKER SIDIQUE K.,
TIMBER MECHANT, AKALUR P.O.,
PAZHAYA LAKKIDI, OTTAPALAM.**

**BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
DEPARTMENT OF COMMERCIAL TAXES,
OTTAPALAM - 679 521.**
- 2. THE ASSISTANT COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES, PALAKKAD - 678 001.**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
PALAKKAD - 678 001.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 11218 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF THE ASSESSMENT ORDER PASSED BY 1ST RESPONDENT
FOR THE MONTH OF (MAY 2014 TO AUGUST 2014) DATED 1.12.2014.**

**EXT.P2: TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT DTD.30.3.2015.**

**EXT.P3: TRUE COPY OF THE DELAY CONDONATION PETITION FILED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT DTD.30.3.2015.**

**EXT.P4: TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT DTD.30.3.2015.**

**EXT.P5: TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE REVENUE
RECOVERY ACT ISSUED BY 3RD RESPONDENT DTD.8.1.2015.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv**/**

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.11218 of 2015

.....
Dated this the 7th day of April, 2015

J U D G M E N T

Against Ext.P1 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P2 appeal and Ext.P3 delay condonation petition, and Ext.P4 stay petition before the 2nd respondent. It is the case of the petitioner that, even prior to considering the stay petition, recovery steps are sought to be pursued by Ext.P5 demand notice for recovery of the amounts confirmed by Ext.P1 assessment 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 2nd respondent shall consider and pass orders on Ext.P3 delay condonation petition and 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 demand notice shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 2nd respondent shall be a reasoned one adverting 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

