

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. 11256 of 2015 (F)

PETITIONER :

**PADMAKUMARAN NAIR
S/O. DIVAKARA PILLAI
AKHIL TRADERS, THEMPAMOODU
NEDUMANGAD, THIRUVANANTHAPURAM DIST.**

BY ADV. SRI.R.ANILKUMAR

RESPONDENT(S) :

- 1. COMMERCIAL TAX OFFICER
NEDUMANGAD, THIRUVANANTHAPURAM
PIN – 695 001.**
- 2. DEPUTY COMMISSIONER (APPEALS)
THIRUVANANTHAPURAM, PIN – 695 001.**

R1 & R2 BY GOVT. PLEADER SMT. SHOBA ANNAMMA EAPEN

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

Mn

...2/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : TRUE PHOTOCOPY OF THE ASSESSMENT ORDER
NO. 32011052422/05-06 DATED 25.2.2012 PASSED BY THE 1ST
RESPONDENT.
- EXT.P2 TRUE PHOTOCOPY OF THE ORDER PASSED BY THE 2ND
RESPONDENT ON 15.8.2013.
- EXT.P3 TRUE PHOTOCOPY OF THE ASSESSMENT ORDER DATED 25.12.2014.
- EXT.P4 TRUE PHOTOCOPY OF THE APPEAL MEMORANDUM FILED BEFORE
THE 2ND RESPONDENT ON 5.3.2015.
- EXT.P5 TRUE PHOTOCOPY OF the INTERLOCUTORY APPLICATION FOR STAY
OF THE REVENUE RECOVERY PROCEEDINGS FOR IMPLEMENTATION
ARE THE ASSESSMENT FILED ON 5.3.2015.
- EXT.P6 TRUE PHOTOCOPY OF THE DEMAND NOTICE DT. 27-2-2012.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.11256 of 2015

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Dated this the 7th day of April, 2015

J U D G M E N T

Against Ext.P3 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P4 appeal and Ext.P5 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.P6 demand notice for recovery of the amounts confirmed by Ext.P3 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.P5 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.P6 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

