

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).NO. 12080 OF 2015 (H)

PETITIONER(S) :

HI-LITE BUILDERS PVT.LTD.,
METROMAX JN.,
THONDAYAD BYPASS,
NELLIKODE, KOZHIKODE DISTRICT,
REPRESENTED BY ITS DIRECTOR SRI..

BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR
SRI.K.UMAMAHESWAR

RESPONDENT(S) :

1. COMMERCIAL TAX OFFICER (WC),
JAWAHAR NAGAR, KOZHIKODE-673006
2. THE DEPUTY COMMISSIONER,COMMERCIAL TAXES,
JAWAHAR NAGAR, KOZHIKODE-673006
3. THE SALES TAX OFFICER(RECOVERY),
O/O.DEPUTY COMMISSIONER,COMMERCIAL TAXES DEPARTMENT,
KOZHIKODE-673006

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF ASSESSMENT ORDER DATED 29.10.2014 ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2010-2011

EXT.P2: COPY OF STATEMENT SHOWING THE DETAILS OF PAYMENT OF AMOUNT COVERED BY EXT.P1

EXT.P3: COPY OF PENALTY ORDER DATED 9.02.2015 ISSUED BY THE 1ST RESPONDENT

EXT.P4: COPY OF REVISION PETITION FILED AGAINST EXT.P2

EXT.P5: COPY OF STAY PETITION FILED IN EXT.P4 REVISION

EXT.P6: COPY OF LETTER DATED 30.03.2015 FORWARDING DD

EXT.P7: COPY OF NOTICE DATED 17.03.2015 ISSUED BY THE 3RD RESPONDENT

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.12080 of 2014

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Dated this the 10th day of April, 2015

J U D G M E N T

Against Ext.P3 penalty order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P4 revision 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 for recovery of the amounts confirmed by Ext.P3 penalty order.

2. I have heard the learned counsel for the petitioner and also the learned Government Pleader for the respondents. It is submitted by counsel for the petitioner that 15% of the demand has already been paid by the petitioner.

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. While passing orders on the stay petition, the 2nd respondent shall take note of the fact that the petitioner has already paid 15% of the penalty amount confirmed against him. The 2nd

respondent shall consider and pass orders on Exts.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. Recovery steps for recovery of amounts confirmed against petitioner by Ext.P3 penalty order 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 advertent to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the revision.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns