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. 12315 of 2015 (L)

PETITIONER(S):

THE KADANAD SERVICE CO-OPERATIVE BANK LTD
KOLLAPPALLY, ANTHIKADU PO., KOTTAYAM DISTRICT
REPRESENTED BY ITS SECRETARY

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S):

----

1. **THE JOINT COMMISSIONER, OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE, CUSTOMS SERVICE TAX OFFICE I.S. PRESS ROAD, COCHIN - 682 018**

2. **THE COMMISSIONER (APPEALS), OFFICE OF THE COMMISSIONER OF CUSTOMS, CENTRAL EXCISE & SERVICE TAX (APPEALS), C.R.BUILDINGS, I.S. PRESS ROAD, COCHIN - 682 018**

R BY SRI.THOMAS MATHEW NELLIMOOTTIL,STANDING COUNSEL

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

WP(C).No. 12315 of 2015 (L)
--

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1	**TRUE COPY OF ORDER DATED 26.12.2014.**
EXHIBIT P2	**TRUE COPY OF THE APPEAL DATED 20.02.2015 FOR THE PERIOD 01.04.2006 TO 31.12.2011.**
EXHIBIT P3	**TRUE COPY OF THE APPEAL DATED 20.02.2015 FOR THE PERIOD 01.04.2006 TO 31.12.2011.**
EXHIBIT P4	**TRUE COPY OF THE STAY PETITION DATED 20.02.2015.**
EXHIBIT P5	**TRUE COPY OF THE STAY PETITION DATED 20.02.2015.**

RESPONDENT'S EXHIBITS:-
-- **NIL**

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.
==
W.P.(C). No. 12315 of 2015
==
Dated this the 10th day of April, 2015

JUDGMENT

The Petitioner is an assessee under the Kerala Value Added Tax Act, 2003, hereinafter referred to as 'KVAT Act'. Against Ext.P1 assessment order confirming a demand of service tax and penalty on the petitioner, the petitioner had preferred Exts.P2 and P3 appeals together with Exts.P4 and P5 stay petitions before the 2nd respondent. It is the case of the petitioner that, even prior to considering the stay petitions, recovery steps are taken by the respondents for recovery of the amounts confirmed against the petitioner by Ext.P1 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. Inasmuch as this Court has taken a view that appeals to be filed, against orders passed in respect of show cause notices issued prior to 16.8.2014, the date of the amendment to the Finance Act, 1994,

requiring pre-deposit of amounts as a condition for maintaining the appeals, will not be affected by the said amendment, there will be a direction to the 2nd respondent to consider and pass orders on Exts.P4 and P5 stay petitions 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.P1 assessment order shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das