

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. 12470 of 2015 (G)

PETITIONER(S):

**M.SAJEEV,
ANARKALI CHEMICALS,
OTTUMALA, KATTADI P.O.,
KOTTARAKKARA 691 537, KOLLAM DISTRICT.**

BY ADV. SRI.V.DEVANANDA NARASIMHAM

RESPONDENT(S):

**1.THE COMMERCIAL TAX OFFICER-II
COMMERCIAL TAXES, KOTTARAKKARA,
KOLLAM 691 506.**

**2.THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, BAPPUJI NAGAR,
ASRAMAM, KOLLAM - 691 002.**

**3.THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES, BAPPUJI NAGAR,
ASRAMAM, KOLLAM - 691 002.**

**4.THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, KOTTARAKKARA, KOLLAM - 691 506.**

R 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 THE ANNUAL RETURN DATED 23.2.12 E-FILED IN RESPECT OF TRADING ACTIVITY BEFORE 1ST RESPONDENT.

EXT.P2: COPY OF THE ASSESSMENT ORDER PASSED U/S 25(1) OF THE KVATACT DATED 30.12.14 BY 1ST RESPONDENT ON THE PETITIONER.

EXT.P3: COPY OF THE PENALTY ORDER PASSED U/S 67(1) OF THE KVATACT DATED 30.12.14 BY 1ST RESPONDENT.

EXT.P4: COPY OF THE APPEAL DATED 7.4.15 FILED AGAINST EXT.P2 ASSESSMENT ORDER BEFORE 2ND RESPONDENT.

EXT.P5: COPY OF THE REVISION DATED 7.4.15 FILED AGAINST EXT.P3 PENALTY ORDER BEFORE 3RD RESPONDENT.

EXT.P6: COPY OF INTERLOCUTORY APPLICATION FOR CONDONATION OF DELAY DATED 7.4.15 FILED BEFORE 2ND RESPONDENT.

EXT.P7: COPY OF INTERLOCUTORY APPLICATION FOR CONDONATION OF DELAY DATED 7.4.15 FILED BEFORE 3RD RESPONDENT.

EXT.P8: COPY OF INTERLOCUTORY APPLICATION FOR ABSOLUTE STAY DATED 7.4.15 FILED BEFORE 2ND RESPONDENT.

EXT.P9: COPY OF INTERLOCUTORY APPLICATION FOR ABSOLUTE STAY DATED 7.4.15 FILED BEFORE 3RD RESPONDENT.

EXT.P10: COPY OF THE RR NOTICE DTD. 7.3.15 ISSUED BY 4TH RESPONDENT TO THE PETITIONER.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.12470 OF 2015 (G)

Dated this the 10th day of April, 2015

J U D G M E N T

Against Ext.P2 assessment order and Ext.P3 penalty order under the KVAT Act, the petitioner had preferred Ext.P4 appeal and Ext.P5 revision before the 2nd and 3rd respondents respectively. Along with the said appeal and revision, the petitioner had also preferred Exts.P6 and P7 delay condonation petitions and Exts.P8 and P9 stay petitions before the aforesaid respondents. 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.P2 assessment order and Ext.P3 penalty 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. The 2nd and 3rd respondents shall consider and pass orders on Exts.P6 and P7 delay condonation petitions and Exts.P8 and P9 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 pursuant to Ext.P10 revenue recovery notice for recovery of amounts confirmed against the petitioner pursuant to Ext.P2 assessment order and Ext.P3 penalty order shall be kept in abeyance till orders are passed by the 2nd and 3rd respondents as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp