

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

WP(C).No. 21652 of 2015 (F)

PETITIONER :

**M/S.CONFIDENT PROJECTS (INDIA) PVT. LTD,
868/2, S.A.ROAD, VYTILA,KOCHI -682 019
REPRESENTED BY ITS CHAIRMAN AND
MANAGING DIRECTOR DR.ROY.C.J.,
BY POWER OF ATTORNEY HOLDER T.A.JOSEPH, S/O.T.J.ALEXANDER,
THERUVI PARAMBIL HOUSE, KRRRA-4, KUNNAPPALLI ROAD,
VENNALA.**

**BY ADVS.SRI.K.J.ABRAHAM
SRI.NIKHIL JOHN**

RESPONDENT(S):

- 1. THE ASSISTANT COMMISSIONER (WC & LT),
O/O.DEPUTY COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES, CLASS TOWER, 2ND FLOOR,
OLD RAILWAY STATION ROAD, ERNAKULAM- 682 018.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM- 682 015.**
- 3. THE INSPECTING ASST. COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM, COCHIN -682 030.**

BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 21652 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT:P1 TRUE COPY OF THE ASSESSMENT ORDER NO.32072009905/2009-10
DATED 02.05.2015.**

**EXT:P2 TRUE COPY OF THE APPEAL MEMORANDUM IN FORM NO.29 DATED
29.06.2015 FOR THE YEAR 2009-10.**

**EXT:P3 TRUE COPY OF THE FORM NO.30 STAY PETITION DATED 29.06.2015
FOR THE YEAR 2009-10.**

**EXT:P4 TRUE COPY OF THE FORM NO.1 DEMAND NOTICE NO.A5-1767/15
DATED 02.07.2015.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

.....

W.P.(C).No.21652 of 2015

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Dated this the 17th day of July, 2015

J U D G M E N T

Against Ext.P1 assessment order under the KVAT Act, the petitioner had preferred Ext.P2 appeal and Ext.P3 stay petition before the 2nd respondent. It is the case of the petitioner that even prior to considering the stay petition, 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. The 2nd respondent shall consider and pass orders on Ext.P3 stay petition within a period of one month 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.

3. 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

