

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

WP(C).No. 26444 of 2015 (E)

PETITIONER :

**M/S.QUALITY FOODS, MASJIDUL HIDAYA BUILDING, XI/508-A & B,
HIDAYATH NAGAR, HMT COLONY P.O., KALAMASSRY,
ERNAKULAM DISTRICT A REGISTERED PARTNERSHIP FIRM,
REPRESENTED BY ITS MANAGING PARTNER
SRI ABDUL RASHEED, AGED 42 YEARS**

**BY ADVS.SRI.E.P.GOVINDAN
SMT.G.DEEPA**

RESPONDENTS :

- 1. THE COMMERCIAL TAX OFFICER, FIRST CIRCLE,
KALAMASSERY, ERNAKULAM DISTRICT PIN - 683104.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, THEVARA, ERNAKULAM PIN-682013**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, CIVIL STATION, KAKKANAD,
ERNAKULAM PIN-682030.**
- 4. THE STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, TAXES DEPARTMENT,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM PIN-695001.**

BY GOVERNMENT PLEADER LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE NOTICE DT 12/8/2015 ISSUED BY THE R3 TO THE PETITIONER.
- P2: COPY OF THE REVISED ASSESSMENT ORDER DT 22/6/2015 PASSED BY THE 1ST RESPONDENT.
- P3: COPY OF THE APPEAL MEMORANDUM FILED BEFORE THE R2 DT 9/7/2015.
- P4: COPY OF THE STAY PETITION FILED BEFORE THE R2 DT 9/7/2015.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.26444 of 2015
.....
Dated this the 1st day of September, 2015

J U D G M E N T

Against Ext.P2 revised assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P3 appeal memorandum and Ext.P4 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.P2 revised assessment order.

2. 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.P4 stay petition within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.
- ii. It is made clear that, till such time as orders

are passed by the 2nd respondent as directed, and communicated to the petitioner, recovery steps for recovery of amounts confirmed against the petitioner by Ext.P2 revised assessment order shall be kept in abeyance.

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