

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

WP(C).NO. 26880 OF 2015 (H)

PETITIONER(S) :

THE CALICUT COSMOPOLITAN CLUB
BEACH ROAD, CALICUT
PIN-673001 REPRESENTED BY ITS HON.SECRETARY
K.V.ARUN.

BY ADVS.SRI.T.G.MADHAVANUNNI
SRI.C.S.ARUN SHANKAR
SMT.REVATHY P.NAIR

RESPONDENT(S) :

1. THE COMMISSIONER OF COMMERCIAL TAXES
THIRUVANANTHAPURAM-695033.

2. THE COMMERCIAL TAX OFFICER
LUXURY TAX, COMMERCIAL TAXES, KOZHIKODE-673006.

3. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, KOZHIKODE-673006.

4. THE SALES TAX OFFICER (RECOVERY)
COMMERCIAL TAXES, KOZHIKODE-673006.

BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 26880 OF 2015 (H)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 : TRUE COPY OF THE ASSESSMENT ORDER ALONG WITH THE DEMAND NOTICE
DT.8-7-15 ISSUED BY THE 2ND RESPONDENT FOR THE YEAR 2012-13.

P2 : TRUE COPY OF THE APPEAL DT.5-8-2015 FILED BY THE PETITIONER FOR
THE YEAR 2012-13.

P3 : TRUE COPY OF THE PETITION DT.5-8-2015 FILED BY THE PETITIONER FOR
STAY OF COLLECTION OF TAX & INTEREST FOR THE YEAR 2012-13.

P4 : TRUE COPY OF THE REVENUE RECOVERY NOTICE DT.7-8-2015 ISSUED BY R4
FOR RECOVERY OF THE AMOUNT OF TAX INTEREST AND COLLECTION CHARGE OF
RS.2,24,642/- DEMANDED FOR TH YEAR 2012-13.

RESPONDENT(S) ' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.26880 of 2015

.....
Dated this the 7th day of September, 2015

J U D G M E N T

Against Ext.P1 assessment order under the Kerala Tax on Luxuries Act, the petitioner has preferred Ext.P2 appeal and Ext.P3 stay petition before the 3rd respondent. Ext.P4 is the revenue recovery notice. It is the case of the petitioner that, even prior to considering the stay petition by the 3rd respondent, recovery steps have been initiated against him through Ext.P4 revenue recovery notice, for recovery of the amounts confirmed by Ext.P1 assessment order.

2. I have heard the learned counsel for the petitioner and 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 3rd 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.

ii. Coercive steps pursuant to Ext.P4 revenue recovery notice shall be kept in abeyance till orders are passed by the 3rd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 3rd 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

