

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

WP(C).No. 26934 of 2015 (N)

PETITIONER(S):

**M/S.J.J.AGENCIES,
KAYAMKULAM,
REP. BY ITS MANAGING PARTNER JACOB MATHEW,
AGED 52 YEARS, S/O.T.C.MATHEW KUTTY,
PUTHEN PURAKKAL HOUSE, ERUVA P.O, KAYAMKULAM,
PIN - 690 502.**

**BY ADVS.SRI.P.A.ABDUL JABBAR
SRI.H.ABDUL LATHIEF**

RESPONDENT(S):
-----,

- 1. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, CHENGANNUR, PIN - 689 121.**
- 2. THE DY. COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOLLAM, PIN - 691 002.**
- 3. THE COMMERCIAL TAX OFFICER-I,
COMMERCIAL TAX OFFICE, KAYAMKULAM, PIN - 690 502.**

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 26934 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1 - TRUE COPY OF THE ASSESSMENT ORDER NO.32040226642/2011-12 ISSUED BY
THE 3RD RESPONDENT ALONG WITH DEMAND NOTICE.**

**P2 - TRUE COPY OF THE INTERIM ORDER PASSED IN APPEAL NO.KVATA
(ALPY) 231/2015 BY THE 2ND RESPONDENT.**

**P3 - TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT TO THE
PETITIONER.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.26934 OF 2015

Dated this the 8th day of September, 2015

J U D G M E N T

The writ petition is filed against Ext.P2 conditional order of stay, passed by the 2nd respondent in an appeal preferred by the petitioner against an order of assessment under the Kerala Value Added Tax Act for the year 2011-12. In the writ petition, Ext.P2 is impugned on the ground that the 2nd respondent, while passing Ext.P2 order, did not exercise his discretion validly.

2. I have heard the learned counsel for the petitioner as 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 find that, in Ext.P2 order, the 2nd respondent has passed the conditional order of stay only on account of the fact that the petitioner was not in a position to produce documents to substantiate his contentions on merits. I therefore do not find any illegality in Ext.P2 order that warrants an

interference of this Court under Article 226 of the Constitution of India. I therefore dismiss this writ petition, in its challenge against Ext.P2 order of the 2nd respondent.

Counsel for the petitioner would pray for some time to comply with the directions in Ext.P2 order. Taking note of the plea of financial hardship urged on behalf of the petitioner, I grant the petitioner time up to 30.10.2015, to comply with the directions in Ext.P2 order. Save for this limited modification, the writ petition, in its challenge against Ext.P2 order, is otherwise dismissed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp