

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

WP(C).No. 27117 of 2015 (L)

PETITIONER(S):

**M.AYOOB KHAN,
PROPRIETOR, M/S.FATHIMA AGENCIES,
JEW STREET, ERNAKULAM.**

**BY ADVS.SRI.P.S.SOMAN
SMT.T.RADHAMANY**

RESPONDENT(S):

**1. COMMERCIAL TAX OFFICER
2ND CIRCLE, ERNAKULAM 682 030.**

**2.DEPUTY COMMISSIONER (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES,
COMMERCIAL TAX COMPLEX, THEVARA 682 016.**

**3.INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM 682 030.**

R BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

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

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2013-14 DATED 30.5.2015 ISSUED BY THE 1ST RESPONDENT.

EXT.P2: COPY OF THE APPEAL MEMORANDUM FILED BEFORE THE 2ND RESPONDENT DATED 6.7.2015.

EXT.P3: COPY OF THE PETITION FOR EARLY HEARING OF THE APPEAL FILED BEFORE THE 2ND RESPONDENT DATED 6.7.2015.

EXT.P4: COPY OF THE PETITION FOR STAY OF COLLECTION OF DISPUTED AMOUNT FILED BEFORE THE 2ND RESPONDENT DATED 6.7.2015.

EXT.P5: COPY OF THE PETITION FOR CONDONATION OF DELAY FILED BEFORE THE 2ND RESPONDENT DATED 29.7.2015.

EXT.P6: COPY OF THE REVENUE RECOVERY NOTICE NO.A5-2106/15 DATED 7.8.2015 ISSUED BY THE 3RD RESPONDENT.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.27117 OF 2015 (L)

Dated this the 9th day of September, 2015

J U D G M E N T

Against Ext.P1 assessment order under the KVAT Act, the petitioner has preferred Ext.P2 appeal, Ext.P4 stay petition and Ext.P5 delay condonation 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 through Ext.P6 revenue recovery notice for recovery of the amounts confirmed 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.

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.P4 stay petition and Ext.P5 delay condonation

petition, within a period of two months 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 by 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp