

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. 27208 of 2015 (A)

PETITIONER(S):

**M/S. OJIN FOODS (P) LTD.,
CONVENT ROAD, KOZHIKODE,
REPRESENTED BY ITS MANAGING DIRECTOR,
JUNAIS A.K.**

BY ADV. SRI.R.RAMADAS

RESPONDENT(S):

**1.THE COMMISSIONER OF COMMERCIAL TAXES
THIRUVANANTHAPURAM 695 001.**

**2.THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, KOZHIKODE 673 001.**

**3.THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES, 1ST CIRCLE,
KOZHIKODE, PIN - 673 001.**

**4.THE COMMERCIAL TAX OFFICER (RECOVERY),
OFFICE OF THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES DEPARTMENT, KOZHIKODE 673 006.**

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 DATED 23.12.2014 ISSUED BY THE 3RD RESPONDENT.

EXT.P2: COPY OF THE APPEAL DATED 21.2.2015 BEFORE the 2ND RESPONDENT.

EXT.P3: COPY OF THE STAY PETITION DATED 21.2.2015 BEFORE THE 2ND RESPONDENT.

EXT.P4: COPY OF THE REVENUE RECOVERY NOTICE DATED 4.2.2015 ISSUED BY THE 4TH RESPONDENT.

EXT.P5: COPY OF THE ORDER DATED 11.5.2015 IN RESPECT OF THE ASSESSMENT YEAR 2010-11 ISSUED BY THE DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, KOZHIKODE.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.27208 OF 2015 (A)

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 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 sought to be pursued through Ext.P4 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.

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 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