

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. 27212 of 2015 (B)

PETITIONER(S):

- 1. KIZHAKKUMBROTH KUNHABDULLA, AGED 63 YEAR,S
S/O.MOHAMMED HAJI, KIZHAKKUMBRATH HOUSE
PULLOOKKADA P.O., KANNUR, KERALA.**
- 2. MULIYIL MOHAMMED
S/O.KUNHIMOOSA, KALANDAR, MULIYIL KARIYAD
P.O., KARIYAD SOUTH, KANNUR
KERALA.**

BY ADV. SRI.R.RAMADAS

RESPONDENT(S):

- 1. THE COMMISSIONER OF COMMERCIAL TAXES
THIRUVANANTHAPURAM-695001.**
- 2. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, KOZHIKODE-673001.**
- 3. THE COMMERCIAL TAX OFFICER
1ST CIRCLE, THALASSERY-679532.**
- 4. THE TAHSILDAR
REVENUE RECOVERY, THALASSERY-679532.**

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:**

WP(C).No. 27212 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: TRUE COPY OF THE ASSESSMENT ORDER DATED 12.01.2015 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT-P2: TRUE COPY OF THE APPEAL DATED 19.02.2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT-P3: TRUE COPY OF THE STAY PETITION DATED 19.02.2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT-P4: TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 12.02.2015 ISSUED BY THE 4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.27212 OF 2015 (B)

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 petitioners have preferred Ext.P2 appeal and Ext.P3 stay petition before the 2nd respondent. It is the case of the petitioners 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 petitioners 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 two months from the date of receipt of a copy of this judgment,

after hearing the petitioners.

2.Recovery steps for recovery of amounts confirmed against petitioners 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