

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

WP(C).No. 27516 of 2015 (L)

PETITIONER(S):

**M/S ELLORA PAINTS PVT. LTD.,
CHERTHALA, ALAPPEY,
REPRESENTED BY ITS MANAGING DIRECTOR,
MR.VARGHESE ANTONY.**

**BY ADVS.SRI.A.KUMAR
SMT.G.MINI**

RESPONDENT(S):

- 1. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOLLAM - 691 001.**
- 2. INTELLIGENCE OFFICER,
SQUAD NO.III, COMMERCIAL TAXES,
ALAPPUZHA - 688 001.**
- 3. MANAGER, FEDERAL BANK,
CATHOLIC CENTRE, BROADWAY,
ERNAKULAM - 682 031.**

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
11-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 27516 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF THE ORDER DTD.25.3.2015 PASSED BY THE
2ND RESPONDENT.**

EXT.P2: THE POSTAL COVER EVIDENCING SERVICE OF THE PENALTY ORDER.

**EXT.P3: TRUE COPY OF THE MEMORANDUM OF APPEAL FILED BEFORE
1ST RESPONDENT.**

EXT.P4: TRUE COPY OF THE APPLICATION FOR STAY FILED IN THE APPEAL.

EXT.P5: TRUE COPY OF THE BANK GUARANTEE ISSUED BY THE 3RD RESPONDENT.

**EXT.P6: TRUE COPY OF THE LETTER DTD.24.8.2015 ISSUED TO THE
3RD RESPONDENT BAN BY THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.27516 of 2015

.....
Dated this the 11th day of September, 2015

J U D G M E N T

Against Ext.P1 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P3 appeal and Ext.P4 stay petition before the 1st respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued for recovery of the amounts including steps taken for encashing the bank guarantee furnished by the petitioner in the interregnum.

2. I have heard the learned counsel for the petitioner and 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 dispose the writ petition with the following directions:

- i. The 1st respondent shall consider and pass orders on Ext.P3 appeal within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

(ii) I make it clear that, till such time as orders are passed by the 1st respondent as directed and communicated the same to the petitioner. Recovery steps for recovery of amounts confirmed against the petitioner by Ext.P1 order shall be kept in abeyance.

(iii) The respondents shall also refrain from encashing the bank guarantee furnished by the petitioner in the meanwhile. The petitioner shall keep the bank guarantee alive during the pendency of the appeal before the 1st respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns