

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

WP(C).NO. 27942 OF 2015 (P)

PETITIONER:

**SRI KANNAN & CO REP. BY DHANDAPANI,
MANAGING PARTNER, AGED 39 YEAR,
S/O.T.R.SOMASUNDARAM, NO.6, K.R.R. LAYOUT,
MANGALAM ROAD, TIRUPUR, TAMIL NADU.**

BY ADV. SRI.S.MURALI

RESPONDENTS:

- 1. THE STATE OF KERALA, REP. BY ITS SECRETARY,
TAXES, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM-695 001.**
- 2. ASSISTANT COMMISSIONER (ASSESSMENT), SPECIAL CIRCLE,
DEPARTMENT OF COMMERCIAL TAX, PALAKKAD-678 001.**
- 3. DEPUTY COMMISSIONER OF COMMERCIAL TAXES (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES, GOVERNMENT OF KERALA,
PALAKKAD-678 001.**

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AS

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE ASSESSMENT ORDER NO.32090536034 DATED 10.07.2015 FOR THE FINANCIAL YEAR 2011-2012.
- EXT.P2: COPY OF THE APPEAL FILED BEFORE 3RD RESPONDENT DATED 9.9.2015.
- EXT.P3: COPY OF INTERLOCUTORY APPLICATION FOR CONDONATION OF DELAY FILED BEFORE 3RD RESPONDENT DATED 9.9.2015.
- EXT.P4: COPY OF INTERLOCUTORY APPLICATION FOR THE RELIEF OF STAY OF COLLECTION DELAY FILED BEFORE 3RD RESPONDENT DATED 9.9.2015.
- EXT.P5: COPY OF INTERLOCUTORY APPLICATION FOR THE RELIEF OF URGENT HEARING DELAY FILED BEFORE 3RD RESPONDENT DATED 9.9.2015.
- EXT.P6: COPY OF THE E-PAYMENT RECEIPT FOR APPEAL.
- EXT.P6(a): COPY OF THE E-PAYMENT RECEIPT OF INTERLOCUTORY APPLICATION FOR CONDONATION OF DELAY.
- EXT.P6(b): COPY OF THE E-PAYMENT RECEIPT OF INTERLOCUTORY APPLICATION FOR THE RELIEF OF STAY OF COLLECTION.
- EXT.P6(c): COPY OF THE E-PAYMENT RECEIPT OF INTERLOCUTORY APPLICATION FOR THE RELIEF OF URGENT HEARING.

RESPONDENT'S EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

AS

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.27942 OF 2015

Dated this the 16th day of September, 2015

J U D G M E N T

Against Ext.P1 assessment order under the Kerala Value Added Tax Act, 2003, the petitioner has preferred Ext.P2 appeal before the 3rd respondent. Along with the appeal, the petitioner has also preferred Ext.P3 petition for condonation of delay and Ext.P4 stay petition before the 3rd respondent. The grievance of the petitioner is that even before considering the stay petition, the respondents are taking steps to recover the amounts confirmed against the petitioner 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 3rd respondent shall consider and pass orders on Ext.P3 petition for condonation of delay and Ext.P4 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 3rd respondent as directed above and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

rsr