

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

WP(C).No. 28279 of 2015 (H)

PETITIONER(S):

**M/S. JAYAKRISHNAN & CO., 41/1272A,
KRISHNA KRIPA, CP UMMER ROAD,
ERNAKULAM 682 017M REPRESENTED BY ITS
PROPRIETORM MR. N. JAYAKRISHNAN, AGED 55 YEARS**

BY ADV. SMT.K.LATHA

RESPONDENT(S):

- 1. THE STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO THE GOVERNMENT OF KERALA
SECRETARIAT, THIRUVANANTHAPURAM - 695 001**
- 2. THE DEPUTY COMMISSIONER, COMMERCIAL TAXES
ERNAKULAM - 682 018**
- 3. THE DEPUTY COMMISSIONER, COMMERCIAL TAXES
ERNAKULAM - 682 018**
- 4. INSPECTING ASST. COMMISSIONER, COMMERCIAL TAXES
KAKKANAD, ERNAKULAM - 682 030**
- 5. THE BRANCH MANAGER, STATE BANK OF INDIA,
MG ROAD, ERNAKULAM - 682 031**

**R BY GOVERNMENT PLEADER, SMT. LILLY K.T.
R BY SRI.R.S.KALKURA, SC, SBI**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBIT:-

- EXT.P1A TRUE COPY OF THE PENALTY ORDER No. IBE-VI/OR. 36/2014-15 DATED 02.12.2014 FOR THE 1ST QUARTER OF 2013-2014 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.
- EXT.P1B TRUE COPY OF THE PENALTY ORDER No.IBE-VI/OR-37/2014-15 DATED 02.12.2014 FOR THE IIND QUARTER OF 2013-2014 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.
- EXT.P1C THE TRUE COPY OF THE PENALTY ORDER NO.IBE-VI/OR-38/2014-15 DATED 02.12.2014 FOR THE IIIRD QUARTER OF 2013-2014, ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.
- EXT.P1D TRUE COPY OF THE PENALTY ORDER No.IBE-VI/OR- 39/2014-15 DATED 02.12.2014 FOR THE IVTH QUARTER OF 2013-2014 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.
- EXT.P2A TRUE COPY OF THE REVISION IN FORM No.29 ALONG WITH GROUND OF REVISION FILED BY THE PETITIONER BEFORE THE THIRD RESPONDENT AGAINST P1A PENALTY ORDER.
- EXT.P2B TRUE COPY OF THE REVISION IN FORM NO.29 ALONG WITH GROUND OF REVISION FILED BY THE PETITIONER BEFORE THE THIRD RESPONDENT AGAINST P1B , PENALTY ORDER.
- EXT.P2C TRUE COPY OF THE REVISION IN FORM NO.29 ALONG WITH GROUND OF REVISION FILED BY THE PETITIONER BEFORE THE THIRD RESPONDENT AGAINST P1C , PENALTY ORDER.
- EXT.P2D TRUE COPY OF THE REVISION IN FORM NO.29 ALONG WITH GROUND OF REVISION FILED BY THE PETITIONER BEFORE THE THIRD RESPONDENT AGAINST P1D , PENALTY ORDER.
- EXT.P3A TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER IN P2A REVISION PETITION.
- EXT.P3B TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER IN P2B REVISION PETITION.
- EXT.P3C TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER IN P2C REVISION PETITION.
- EXT.P3D TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER IN P2D REVISION PETITION.
- EXT.P4A TRUE COPY OF THE REVENUE RECOVERY NOTICE NUMBERS A5-464/15 DATED 13.02.2015 BASED ON THE P1A PENALTY ORDER ISSUED TO THE PETITIONER.
- EXT.P4B TRUE COPY OF THE REVENUE RECOVERY NOTICE NUMBERS A5-465/15 DATED 13.02.2015 BASED ON THE P1B PENALTY ORDER ISSUED TO THE PETITIONER.

- EXT.P4C TRUE COPY OF THE REVENUE RECOVERY NOTICE NUMBERS A5-466/15 DATED 13.02.2015 BASED ON THE P1C PENALTY ORDER ISSUED TO THE PETITIONER.
- EXT.P4D TRUE COPY OF THE REVENUE RECOVERY NOTICE NUMBERS A5-467/15 DATED 13.02.2015 BASED ON THE P1D PENALTY ORDER ISSUED TO THE PETITIONER.
- EXT.P5 TRUE COPY OF THE HEARING NOTICE DATED 03.02.2015 ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER.
- EXT.P6 TRUE COPY OF REVISION ORDER AND GROUNDS OF DECISIONS ISSUED BY THE THIRD RESPONDENT TO M/S. NJK BUILDERS P LTD DATED 1302.2015.
- EXT.P7 TRUE COPY OF THE PROHIBITORY BANK ATTACHMENT ORDER ISSUED BY THE FOURTH RESPONDENT TO THE FIFTH RESPONDENT BANK DATED 25TH DAY OF AUGUST 2015.

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 28279 of 2015

Dated this the 17th day of September, 2015

JUDGMENT

The Petitioner is a registered dealer under the Kerala Value Added Tax Act, 2003, hereinafter referred to as 'KVAT Act'. Against Exts.P1A to P1D orders of penalty passed under the KVAT Act, the petitioner preferred Exts.P2A to P2D revision petitions and Exts.P3A to P3D stay petitions before the 3rd respondent. (It is the case of the petitioner that even before the consideration of the stay petition by the 3rd respondent, recovery steps have been initiated against the petitioner by Exts.P4A to P4D, and by Ext.P7, prohibitory bank attachment order, the 4th respondent has restrained the petitioner from operating the bank account with the 5th respondent bank.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ petition with a direction to the 3rd respondent to consider and pass orders on Exts.P3A to P3D stay petitions, preferred by the

petitioner before him, within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner. I make it clear that till such time as orders are passed by the 3rd respondent as directed and communicated to the petitioner, coercive steps for recovery pursuant to Exts.P4A to P4D as also operation of Ext.P7 order shall be kept in abeyance.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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