

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

WP(C).No. 28826 of 2015 (C)

PETITIONER(S):

**ABDUL KHADER K.E., PROPRIETOR,
M/S. GAZALA FAMILY RESTAURANT
NEAR HEAD POST OFFICE, PALAKKAD**

**BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER
IIND CIRCLE, PALAKKAD - 678 001**
- 2. THE ASSISTANT COMMISSIONER (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES
PALAKKAD - 678 001**

R BY GOVERNMENT PLEADER, SRI. LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 28826 of 2015 (C)

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 TRUE COPY OF THE ASSESSMENT ORDER PASSED BY THE
RESPNDENT FOR THE YEAR 2013-14 DATED 30.07.2015**
- EXT.P2 TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT DATED 26.08.2015**
- EXT.P3 TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT DATED 26.08.2015**
- EXT.P4 TRUE COPY OF THE DEMAND NOTICE IN FORM No.12 ISSUED BY 1ST
RESPONDENT FOR THE YEAR 2013-14 DATED 30.07.2015.**

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 28826 of 2015

Dated this the 23rd day of September, 2015

JUDGMENT

The Petitioner is a registered dealer under the Kerala Value Added Tax Act, 2003, hereinafter referred to as the "KVAT Act". Against Ext.P1 assessment order passed under the KVAT Act, the petitioner preferred Ext.P2 appeal and Ext.P3 stay petition before the 2nd 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 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 2nd respondent to consider and pass orders on Ext.P3 stay petition, 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. The recovery steps

for recovery of amounts confirmed against the petitioner by Ext.P1 order, shall be kept in abeyance till such time as the 2nd respondent passes orders, as directed, in Ext.P3 stay petition and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das