

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

WP(C).No. 29147 of 2015 (P)

PETITIONER(S):

**MATHEWKUTTY, MANKOTIL AGED 62 YEARS,
MANAGING PARTER,
M/S. PRECISION ENGINEERING CORPORATION,
INDUSTRIAL ESTATE, ETTUMANOOR, KOTTAYAM.**

BY ADV. SRI.C.K.SREEJITH

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER,
ETTUMANOOR, KOTTAYAM 686631**
- 2. DEPUTY COMMISSIONER(APPEALS)
COMMERCIAL TAXES DEPARTMENT,
KOTTAYAM 686 001**
- 3. DEPUTY TAHSILDHAR (R.R)
KOTTAYAM – 686 001**
- 4. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM 695 001**

BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
25-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P1	TRUE COPY OF THE ASSESSMENT ORDER NO.32051179574/C/2007-08/24.11.2014
EXT.P2	TRUE COPY OF THE DEMAND NOTICE NO.32051179574/C/2007-08/10.12.14
EXT.P3	TRUE COPY OF THE ASSESSMENT ORDER NO.32051179574/2008-09/24.11.2014
EXT.P4	TRUE COY OF THE DEMAND NOTICE IN FORM NO.12, VIDE NO.32051179574/2008-09/12.2.14
EXT.P5	TRUE COPY OF THE CST FINAL ASSESSMENT ORDER NO.32051179574/2008-09/12.2.14
EXT.P6	TRUE COPY OF THE DEMAND NOTICE IN FORM IV AND FORM NO.12, NO NO.32051179574/2008-09/10.12.14
EXT.P7	TRUE COPY OF THE ORDER NO.NO.32051179574/2008-09/24.11.2014.
EXT.P8	TRUE COPY OF THE DEMAND NOTICE IN FORM NO.12 VIDE NO..32051179574/2009 DATED 12.12.2014.
EXT.P9	TRUE COPY OF THE CST ASSESSMENT ORDER NO.32051179574/2010-11/24.11.2014.
EXT.P10	TRUE COPY OF THE DEMAND NOTICE IN FORM NO.IV FOR ₹.44,153/- AND FORM NO.12 FOR ₹.19,427/-.
EXT.P11	TRUE COPY FO THE ASSESS,ENT ORDER NO.NO.32051179574/2011-12/24.11.2014.
EXT.P12	TRUE COPY OF THE DEMAND NOTICE NO.32051179574/11-12.24.11.14.
EXT.P13	TRUE COPY OF THE APPEAL MEMORANDUN IN FORM NO.32051179574/21.2.2015 FOR 2007-08.
EXT.P14	TRUE COPY OF THE APPEAL MEMORANDUM IN FORM NO.29 DATED 21-2-1015 FOR 2008-09 U/S/25(1).

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EXT.P15	TRUE COPY OF THE APPEAL MEMORANDUM IN FORM NO.29 DATED 21.2.2015 FOR 2008-09 CST.
EXT.P16	TRUE COPY OF THE APPEAL MEMORANDUM IN FORM NO.29 DATED 21.2.2015 FOR 2009-10 CST U/S 25(1).
EXT.P17	TRUE COPY OF THE APPEAL MEMORANDUM IN FORM NO.29 DATED 21.2.2015 FOR 2010-11 CST.
EXT.P18	TRUE COPY OF THE APPEAL MEMORANDUM IN FORM NO.29 DATED 21.2.2015 FOR 2011-12 CST.
EXT.P19	TRUE COPY OF THE DELAY CONDONATION PETITION IN FORM NO.30 DATED 21.2.2015 FOR 2007-08.
EXT.P20	TRUE COPY OF THE DELAY CONDONATION PETITION IN FORM NO.30 DATED 21.2.2015 FOR 2008-09 U/S 25(1).
EXT.P21	TRUE COPY OF THE DELAY CONDONATION PETITION IN FORM NO.30 DATED 21.2.2015 FOR 2008-09 CST.
EXT.P22	TRUE COPY OF THE DELAY CONDONATION PETITION IN FORM NO.30 DATED 21.2.2015 FOR 2009-10 U/S 25(1).
EXT.P23	TRUE COPY OF THE DELAY CONDONATION PETITION IN FORM NO.30 DATED 21.2.2015 FOR 2010-11 CST.
EXT.P24	TRUE COPY OF THE DELAY CONDONATION PETITION IN FORM NO.30 DATED 21.2.2015 FOR 2011-12 CST.
EXT.P25	TRUE COPY OF THE STAY PETITION IN FORM NO.30 DATED 21.2.2015 FOR 2007-08.
EXT.P26	TRUE COPY OF THE STAY PETITION IN FORM NO.30 DATED 21.2.2015 FOR 2008-09 U/S 25(1).
EXT.27	TRUE COPY OF THE STAY PETITION IN FORM NO.30 DATED 21.2.2015 FOR 2008-09 CST.
EXT.28	TRUE COPY OF THE STAY PETITION IN FORM NO.30 DATED 21.2.2015 FOR 2009-10 U/S 25(1).
EXT.29	TRUE COPY OF THE STAY PETITION IN FORM NO.30 DATED 21.2.2015 FOR 2010-11 CST.
EXT.30	TRUE COPY OF THE STAY PETITION IN FORM NO.30 DATED 21.2.2015 FOR 2011-12 CST.

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EXT.31	TRUE COPY OF THE DEMAND NOTICE REF.NO.2015/43768/5/14.9.2015 ₹.1,53,615/-.
EXT.32	TRUE COPY OF THE DEMAND NOTICE REF.NO.2015/43757/5/14.9.2015 ₹.82,601.
EXT.P33	TRUE COPY OF THE DEMAND NOTICE REF.NO.2015/43775/5/14.9.2015 ₹.66,891/-.
EXT.P34	TRUE COPY OF THE DEMAND NOTICE REF.NO.2015/43762/5/14.9.2015 ₹.4,40,381/-.

RESPONDENT(S)' EXHIBITS : NIL

**/TRUE COPY/
PA TO JUDGE**

VS

ANIL K.NARENDRA, J.

W.P.(C).No.29147 of 2015

Dated this the 25th day of September, 2015

JUDGMENT

The petitioner, who is an assessee on the file of the first respondent, has filed this writ petition seeking a writ of mandamus commanding the second respondent to consider and pass orders on Exts.P9 to P15 delay petitions and also Exts.P25 to P30 stay petitions. He has also sought for a writ of mandamus commanding the third respondent to keep in abeyance all recovery proceedings pursuant to Exts.P31 to P34 demand notices till disposal of Exts.P13 to P18 appeals pending before the second respondent.

2. I heard the arguments of the learned counsel for the petitioner and also the learned Government Pleader appearing for the respondents.

3. It is aggrieved by the assessment order issued by the first respondent under the provisions of the KVAT Act

and CST Act, the petitioner has filed Exts.P13 to P18 appeals before the second respondent. Along with the aforesaid appeals, the petitioner has filed Exts.P19 to P24 delay condonation petitions and Exts.P25 to P30 stay petitions. Now the grievances of the petitioner is that the aforesaid delay condonation petitions as well as stay petitions are pending consideration before the second respondent and in the meanwhile the third respondent has issued Exts.P31 to P34 demand notices for recovery of the tax in dispute.

4. Considering the fact that Exts.P19 to P25 delay condonation petitions and Exts.P25 to P30 stay petitions are pending consideration before the second respondent, this writ petition is disposed of, directing the second respondent to consider and pass appropriate orders on the aforesaid applications as expeditiously as possible at any rate, within a period of one month from the date of production of a certified copy of this judgment, with notice

to the petitioner. Till such time of all recovery proceedings pursuant to Ext.P31 to P34 demand notices issued by the third respondent shall be kept in abeyance.

The petitioner shall produce a certified copy of this judgment along with a copy of the Writ Petition before the second respondent.

Sd/-
ANIL K.NARENDRA
JUDGE

VS