

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937**

**WP(C).No. 29509 of 2015 (K)**  
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**PETITIONER(S):**  
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**PRAKASAN N.R., PROPRIETOR,  
M/S.VISMANYA COLLECTIONS,  
MANAKKAPPADY, IRUMPANAM,  
ERNAKULAM DISTRICT.**

**BY ADV. SRI.TOMSON T.EMMANUEL**

**RESPONDENT(S):**  
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- 1. INTELLIGENCE OFFICER,  
COMMERCIAL TAXES, SQUAD NO.IV,  
EDAPPALLY, COCHIN - 682 24.**
- 2. DEPUTY COMMISSIONER,  
COMMERCIAL TAXES, SALES TAX COMPLEX,  
ERNAKULAM, COCHIN - 682 015.**
- 3. INSPECTING ASSISTANT COMMISSIONER,  
COMMERCIAL TAXES, KAKKANAD, COCHIN - 682 030.**

**BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
29-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**msv/**

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF SHOP INSPECTION REPORT DTD.8.7.2013, ISSUED TO THE PETITIONER BY 1ST RESPONDENT.

EXT.P2: TRUE COPY OF ORDER IMPOSING PENALTY U/S.67(1) DTD.15.11.2014 ISSUED TO THE PETITIONER BY THE 1ST RESPONDENT.

EXT.P3: TRUE COPY OF APPEAL DTD.25.7.2015 SUBMITTED BY PETITIONER, AGAINST EXT.P2 PENALTY, BEFORE 2ND RESPONDENT.

EXT.P4: TRUE COPY OF PETITION DTD.25.7.2015, FOR CONDONING DELAY IN FILING EXT.P3 APPEAL, SUBMITTED BY PETITIONER BEFORE 2ND RESPONDENT.

EXT.P5: TRUE COPY OF STAY PETITION DTD.25.7.2015, SUBMITTED BY PETITIONER BEFORE 2ND RESPONDENT ALONG WITH EXT.P3 APPEAL.

EXT.P6: TRUE COPY OF DEMAND NOTICE IN FORM NO.1 DATED 2.6.2015 ISSUED BY 3RD RESPONDENT, UNDER THE REVENUE RECOVERY ACT, PURSUANT TO DEMAND MADE IN EXT.P2 PENALTY.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms<sup>v</sup>/

**A.K.JAYASANKARAN NAMBIAR, J.**  
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**W.P.(C). No. 29509 of 2015**  
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**Dated this the 29<sup>th</sup> 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.P2 order of penalty passed under the KVAT Act, the petitioner preferred Ext.P3 revision petition along with Ext.P4 delay condonation petition and Ext.P5 stay petition before the 2<sup>nd</sup> respondent. It is the case of the petitioner that even before the consideration of the stay petition by the 2<sup>nd</sup> respondent, recovery steps have been initiated against him through Ext.P6 revenue recovery notice, for recovery of the amount confirmed in the penalty 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 2<sup>nd</sup> respondent to consider and pass orders on Exts.P4 and P5 delay condonation petition and stay petition respectively, 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 pursuant to Ext.P6, shall be kept in abeyance till such time as the 2<sup>nd</sup> respondent passes orders, as directed, and communicates the same to the petitioner.

Sd/-  
**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

das