

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WP(C).No. 29696 of 2015 (J)

PETITIONER(S):

**M/S. USHA INTERNATIONAL LIMITED,
IX/418/A1, LOGISTIC PARK, THENGODE. P.O.,
EDACHIRA, KAKKANAD, ERNAKULAM,
REPRESENTED BY DEPARTMENT MANAGER.**

**BY ADVS.SRI.ANIL D. NAIR
SRI.R.SREEJITH
SMT.ROSIE ATHULYA JOSEPH
SMT.O.A.NURIYA
SMT SOUMYA PRAKASH
SMT. MEKHALA BENNY**

RESPONDENT(S):

- 1. THE ASSISTANT COMMISSIONER,
SPECIAL CIRCLE-III, DEPT.OF COMMERCIAL TAXES,
ERNAKULAM-682015.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
ERNAKULAM-682030.**
- 3. THE INSPECTING ASST.COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM, COCHIN-20.**

BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE ASSESSMENT ORDER DATED 29/6/15 UNDER K VAT FOR THE YEAR 2010-11 ISSUED TO THE PETITIONER BY THE R1**
- P2: COPY OF THE ASSESSMENT ORDER DATED 29/6/15 UNDER CST FOR THE YEAR 2010-11 ISSUED TO THE PETITIONER BY THE R1**
- P3: COPY OF APPEAL FILED AGAINST K VAT ASSESSMENT ORDER BY THE PETITIONER BEFORE THE R2**
- P4: COPY OF APPEAL FILED AGAINST CST ASSESSMENT ORDER BY THE PETITIONER BEFORE THE R2**
- P5: COPY OF THE STAY PETITION FILED BEFORE THE PETITIONER BEFORE THE R2**
- P6: COPY OF THE STAY PETITION FILED BEFORE THE PETITIONER BEFORE THE R2**
- P7: COPY OF THE NOTICE DATED 25/9/15 ISSUED BY THE R3 TO THE PETITIONER**
- P8: COPY OF THE NOTICE DATED 5/9/15 ISSUED BY THE R3 TO THE PETITIONER**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.29696 of 2015

.....
Dated this the 30th day of September, 2015

J U D G M E N T

Against Exts.P1 and P2 assessment orders under the Kerala Value Added Tax Act and the Central Sales Tax Act, the petitioner has preferred Exts.P3 and P4 appeals and Exts.P5 and P6 stay petitions before the 2nd respondent. It is the case of the petitioner that, even prior to considering the stay petitions by the 2nd respondent, recovery steps have been initiated against him through Exts.P7 and P8 demand notices, for recovery of the amounts confirmed by Exts.P1 and P2 assessment orders.

2. I have heard the learned counsel for the petitioner and also the learned Government Pleader 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:

- i. The 2nd respondent shall consider and pass orders on Exts.P5 and P6 stay petitions within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps pursuant to Exts.P7 and P8 demand notices shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 2nd respondent shall be a reasoned one advertent to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

