

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

WP(C).No. 29854 of 2015 (F)

PETITIONER :

**RIME RICH FOODS PRIVATE LIMITED,
PAPPAI HOUSE, OPP. JUBILEE MISSION HOSPITAL,
THRISSUR - 680005 REPRESENTED BY ITS AUTHORISED
SIGNATORY SRI. STARSON KANDOMKULATHY**

BY ADV. SRI.K.S.HARIHARAN NAIR

RESPONDENTS :

- 1. THE ASSISTANT COMMISSIONER - IV,
SPECIAL CIRCLE, THRISSUR - 680004.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM - 682015.**

***ADDL. R3 IMPEADED :**

- 3. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, IRINGALAKUDA 680121.**

*** ADDL. R3 IS IMPEADED AS PER ORDER DT 01-10-2015 IN
IA NO. 14245/2015.**

BY GOVERNMENT PLEADER SMT.LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF ASSESSMENT ORDER DT 17/7/2015 FOR THE YEAR 2012-13 ISSUED BY THE R1.**
- P2: COPY OF APPEAL MEMORANDUM AGAINST EXT P1 ORDER**
- P3: COPY OF PETITION FOR STAY FILED IN EXT P2 APPEALS.**
- P4: COPY OF STAY ORDER DT 11/8/2015 ISSUED BY THE R2.**
- P5: COPY OF THE EXTENSION ORDER DT 3/9/2015.**
- P6: COPY OF THE RECOVERY NOTICE DT 28/9/2015 ISSUED BY THE R3.**
- P7: COPY OF THE REPLY AND AUDITOR'S CERTIFICATE SHOWING THE SALES CONSOLIDATION DT 16/7/2015.**
- P8: COPY OF PETITION FOR RECTIFICATION DT 29/9/2015.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 29854 of 2015

Dated this the 1st day of October, 2015

JUDGMENT

The challenge in the writ petition is against Exts.P4 and P5 orders, whereby the 2nd respondent has, in an appeal preferred by the petitioner against an assessment order for the year 2012-2013 under the Kerala Value Added Tax Act, hereinafter referred to as the “KVAT Act”, directed the petitioner to pay an amount of 30% of the demand and furnish adequate security for the balance amount within three weeks from the receipt of the order. By Ext.P5 order, the time for complying with the directions in the stay order was extended by twenty days from 03.09.2015 by the 2nd respondent. In the writ petition, the challenge against Exts.P4 and P5 is essentially on the ground that the 2nd respondent, while passing the said order, did not exercise his discretion validly.

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 find that in Ext.P4 order, the 2nd respondent has adverted to the various contentions

raised by the petitioner, at the time of hearing before the 2nd respondent. The 2nd respondent also given reasons as to why the petitioner would be entitled only for a conditional order of stay and it is thereafter that he imposed a condition, directing the petitioner to remit 30% of the demand as a condition for grant of stay against recovery of the balance amount. I find no reason to interfere with the said order of the 2nd respondent and therefore, the writ petition in its challenge against Exts.P4 and P5 order fails and is accordingly dismissed.

The learned counsel appearing for the petitioner would submit that he would require some more time to comply with the directions in Ext.P4 order. Taking note of the plea of financial hardship urged on behalf of petitioner, I extend the time for complying with the directions in Ext.P4 order, till 31.10.2015. Coercive steps for recovery, initiated against the petitioner by Ext.P6 notice of the additional 3rd respondent, shall be kept in abeyance, till 31.10.2015.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE