

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

WP(C).No. 29982 of 2015 (W)

PETITIONER(S):

**SADGURU MARBLES & GRANITES,
KANNUR ROAD, WEST HILL, KOZHIKODE.**

**BY ADVS.SRI.T.G.MADHAVANUNNI,
SRI.C.S.ARUN SHANKAR,
SMT.REVATHY P.NAIR.**

RESPONDENT(S):

- 1. THE COMMISSIONER OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM-695 033.**
- 2. THE ASSISTANT COMMISSIONER, SPECIAL CIRCLE-II,
COMMERCIAL TAXES, KOZHIKODE-673 006.**
- 3. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOZHIKODE-673 006.**
- 4. THE SALE TAX OFFICER (RECOVERY),
O/O. DEPUTY COMMISSIONER,
COMMERCIAL TAXES, KOZHIKODE-673 006.**

BY GOVT. PLEADER SRI.LIJU V.STEPHEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE ASSESSMENT ORDER DATED 10/07/2015 ISSUED BY THE 2ND RESPONDENT FOR THE PERIOD 2009-10.
- EXT.P1A COPY OF THE DEMAND NOTICE DATED 16/07/2015 ISSUED BY THE 2ND RESPONDENT ALONG WITH THE ASSESSMENT ORDER FOR THE PERIOD 2009-10.
- EXT.P2 COPY OF THE APPEAL DATED 01/08/2015 FILED BY THE PETITIONER FOR THE PERIOD 2009-10.
- EXT.P3 COPY OF THE PETITION FOR STAY DATED 01/08/2015 FOR STAY OF COLLECTION OF TAX FOR THE YEAR 2009-10.
- EXT.P4 COPY OF THE REVENUE RECOVERY NOTICE DATED 19/09/2015 ISSUED BY THE 4TH RESPONDENT FOR RECOVERY OF THE AMOUNT OF TAX, INTEREST & COLLECTION CHARGE OF Rs.1,28,783/- DEMANDED FOR THE YEAR 2009-10.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 29982 of 2015

Dated this the 5th day of October, 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 order of assessment passed under the KVAT Act, the petitioner preferred Ext.P2 appeal and Ext.P3 stay petition before the 3rd respondent. It is the case of the petitioner that even before the consideration of the stay petition by the 3rd respondent, recovery steps have been initiated against him through Ext.P4 revenue recovery notice, for recovery of the amount confirmed in the assessment order.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

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 3rd 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 3rd respondent passes orders, as directed, in Ext.P3 stay petition and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das