

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

WP(C).No. 30236 of 2015 (D)

PETITIONER(S):

**M/S AMBALAPAD TRADERS,
CHELLANNUR, 50/2423, KARAT LANE,
NADAKAVU, CALICUT-673 011,
REPRESENTED BY ITS PROPRIETOR
MR.SAJAN SUKUMARAN K.**

**BY ADVS.SMT.K.LATHA,
SMT.M.K.HAJARA,
SRI.C.RAMACHANDRAN.**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY
TO THE GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE COMMERCIAL TAX OFFICER,
IVTH CIRCLE, COMMERCIAL TAXES,
KOZHIKODE-673 011.**
- 3. THE ASSISTANT COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOZHIKODE-670 010.**
- 4. THE DEPUTY TAHSILDAR (RR),
OFFICE OF THE DEPUTY TAHSILDAR,
KOZHIKODE-673 010.**

BY GOVT. PLEADER SRI.LIJU V.STEPHEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2012-2013
ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER
DATED 25/02/2015.
- EXT.P2 COPY OF THE APPEAL IN FORM NO.29 ALONG WITH GROUND
OF APPEAL AND ADDITIONAL GROUNDS OF APPEAL FILED BY
THE PETITIONER BEFORE THE THIRD RESPONDENT AGAINST
THE P1 ASSESSMENT ORDER FOR THE YEAR 2012-2013.
- EXT.P3 COPY OF THE STAY PETITION IN P2 APPEALS IN FORM 30
FILED BY THE PETITIONER BEFORE THE THIRD RESPONDENT.
- EXT.P4 COPY OF THE DEMAND NOTICE IN FORM NO.12 DATED 25/02/2015
ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.
- EXT.P4A COPY OF THE DEMAND NOTICE IN FORM 1 AND FORM 10
ISSUED BY THE FOURTH RESPONDENT TO THE PETITIONER
DATED 08/07/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.30236 of 2015

.....
Dated this the 6th day of October, 2015

J U D G M E N T

Against Ext.P1 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P2 appeal and Ext.P3 stay petition before the 3rd respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued through Exts.P4 and P4(a) demand notices for recovery of the amounts confirmed by Ext.P1 assessment order.

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 3rd respondent shall consider and pass orders on Ext.P3 stay petition 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.P4 and P4 (a) demand notices shall be kept in abeyance till orders are passed by the 3rd respondent as

directed above and communicated to the petitioner.

iii. The order to be passed by the 3rd 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