

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

WP(C).No. 30739 of 2015 (N)

PETITIONER :

**BALAKRISHNAN MANARI,
PROP. PADMAJA SPECIALITIES, CP IV/470 M,
CEEYEM SHOPPING COMPLEX, COMPANYPADI,
THAIKKATTUKARA, ALUVA, PIN-683 106**

BY ADV. SRI.R.MURALIDHARAN (ARoor)

RESPONDENT(S):

- 1. THE ASSISTANT COMMISSIONER,
SPECIAL CIRCLE- MATTANCHERRY AT ALUVA,
DEPARTMENT OF COMMERCIAL TAXES, MINI CIVIL STATION,
ALUVA, PIN-683 101**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAX,
ERNAKULAM, PIN-682 015.**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
MATTANCHERRY, PIN-682 002.**

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.30739/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE ASSESSMENT ORDER PASSED BY THE 1ST RESPONDENT UNDER KVAT ACT, FOR 2012-2013, DATED 17/07/2015**
- P2 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT AGAINST EXT.P1 ORDER, DATED 17/08/2015**
- P3 COPY OF THE INTERLOCUTORY APPLICATION FOR STAY FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT, DATED 17/08/2015**
- P4 COPY OF THE DEMAND NOTICE ISSUED UNDER THE R.R. ACT, BY THE 3RD RESPONDENT DATED 19/09/2015.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.30739 of 2015

.....
Dated this the 9th 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 2nd respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued through Ext.P4 demand notice 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 2nd 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 Ext.P4 demand notice 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

