

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

WP(C).No. 31241 of 2015 (E)

PETITIONER(S):

**M/S.CHERPLACHERY SERVICE CO-OP.BANK LTD.,
NO.589, BUILDING NO.3/903 & 906,
CHERPALCHERY, PALAKKAD DISTRICT,
REPRESENTED BY ITS ASSISTANT SECRETARY
AND SECRETARY IN-CHARGE SMT.C.JAYAKUMARI**

**BY ADVS.SRI.T.M.SREEDHARAN (SR.)
SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAX OFFICE, OTTAPPALAM - 679 121.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM,
COCHIN - 682 015.**
- 3. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**

BY GOVERNMENT PLEADER SMT.LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
14-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE ORDER NO.32091023812/09-10 ALONG WITH DEMAND NOTICE DTD.23.3.2015 FOR AY - 2009-10 ISSUED BY THE 1ST RESPONDENT.

EXT.P1(a): TRUE COPY OF THE DEMAND NOTICE DTD.8.9.2015 FOR AY-2010-11 ISSUED BY THE 1ST RESPONDENT.

EXT.P1(b): TRUE COPY OF THE DEMAND NOTICE DTD.8.9.2015 FOR AY-2011-12 ISSUED BY THE 1ST RESPONDENT.

EXT.P1(c): TRUE COPY OF THE DEMAND NOTICE DTD.8.9.2015 FOR AY-2012-13 ISSUED BY THE 1ST RESPONDENT.

EXT.P1(d): TRUE COPY OF THE DEMAND NOTICE DTD.8.9.2015 FOR AY-2013-14 ISSUED BY THE 1ST RESPONDENT.

EXT.P1(e): TRUE COPY OF THE DEMAND NOTICE DTD.8.9.2015 FOR AY-2014-15 ISSUED BY THE 1ST RESPONDENT.

EXT.P2: TRUE COPY OF THE MEMORANDUM OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2009-10.

EXT.P2(a): TRUE COPY OF MEMORANDUM OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2010-11.

EXT.P2(b): TRUE COPY OF MEMORANDUM OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2011-12.

EXT.P2(c): TRUE COPY OF MEMORANDUM OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2012-13.

EXT.P2(d): TRUE COPY OF MEMORANDUM OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2013-14.

EXT.P2(e): TRUE COPY OF MEMORANDUM OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2014-15.

EXT.P3: TRUE COPY OF THE PETITIONER FOR STAY FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2009-10.

EXT.P3(a): TRUE COPY OF THE PETITIONER FOR STAY FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2010-11.

EXT.P3(b): TRUE COPY OF THE PETITIONER FOR STAY FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2011-12.

Msv/

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**EXT.P3(c): TRUE COPY OF THE PETITIONER FOR STAY FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT FOR AY-2012-13.**

**EXT.P3(d): TRUE COPY OF THE PETITIONER FOR STAY FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT FOR AY-2013-14.**

**EXT.P3(e): TRUE COPY OF THE PETITIONER FOR STAY FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT FOR AY-2014-15.**

**EXT.P4: TRUE COPY OF THE PETITIONER FOR EARLY POSTING FILED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2009-2010.**

**EXT.P4(a): TRUE COPY OF THE PETITIONER FOR EARLY HEARING FILED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2010-11.**

**EXT.P4(b): TRUE COPY OF THE PETITIONER FOR EARLY HEARING FILED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2011-12.**

**EXT.P4(c): TRUE COPY OF THE PETITIONER FOR STAY FILED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2012-13.**

**EXT.P4(d): TRUE COPY OF THE PETITIONER FOR EARLY HEARING FILED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2013-14.**

**EXT.P4(e): TRUE COPY OF THE PETITIONER FOR EARLY HEARING FILED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2014-15.**

**EXT.P5: TRUE COPY OF THE PETITION FOR CONDONATION OF DELAY FILED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT FOR AY-2009-10.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 31241 of 2015

Dated this the 14th 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 series of assessment orders and demand notices passed under the KVAT Act, the petitioner preferred Ext.P2 series of appeals and Ext.P3 series of stay petitions along with Ext.P5 delay condonation petition before the 2nd respondent. The grievance of the petitioner is that even before considering the stay petition, the respondents are taking steps to recover the amounts confirmed against the petitioner by Ext.P1 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 2nd respondent to consider and pass orders on Ext.P3 series of stay petitions and Ext.P5 delay condonation 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 2nd respondent passes orders, as directed, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE