

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 31423 of 2015 (C)

PETITIONER :

**PHOENIX HEAVY ENGINEERING INDUSTRIES
8/994, NIDA, KANJIKODE, PALAKKAD -678 621
REPRESENTED BY ITS AUTHORISED SIGNATORY
JIJESH P.V.**

**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 COMMERCIAL TAX OFFICER
THIRD CIRCLE, COMMERCIAL TAXES
PALAKKAD – 678 001.**
- 3. THE ASSISTANT COMMISSIONER (APPEALS)
COMMERCIAL TAXES, PALAKKAD – 678 001.**
- 4. INSPECTING ASST.COMMISSIONER
COMMERCIAL TAXES, PALAKKAD – 678 001.**

R1 TO R4 BY GOVT. PLEADER SMT. K.T. LILLY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE ASSESSMENT ORDER ALONG WITH DEMAND NOTICE
DATED 31-7-2015 ISSUED BY THE 2ND RESPONDENT FOR THE
PERIOD 2013-14.
- EXT.P2 COPY OF THE APPEAL DATED 1-9-2015 FILED BEFORE 3RD
RESPONDENT FOR THE YEAR 2013-14.
- EXT.P3 COPY OF THE PETITION DATED 1-9-2015 FILED BEFORE THE 3RD
RESPONDENT FOR STAY OF COLLECTION OF TAX & INTEREST FOR
THE YEAR 2013-14.
- EXT.P4 COPY OF THE REVENUE RECOVERY NOTICE DATED 26-9-2015 ISSUED
BY THE 4TH RESPONDENT FOR RECOVERY OF THE AMOUNT OF
RS. 1,02,747/- DEMANDED FOR THE YEAR 2013-14.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.31423 OF 2015 (C)

Dated this the 15th day of October, 2015

J U D G M E N T

Against Ext.P1 assessment order under the KVAT Act, the petitioner had preferred Ext.P2 appeal together with 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 taken by the respondents through Ext.P4 revenue recovery notice for recovery of amounts confirmed against the petitioner by Ext.P1 assessment order.

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

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:

1. 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.

2.Recovery steps for recovery of amounts confirmed against the petitioner pursuant to Ext.P1 assessment order shall be kept in abeyance till orders are passed by the 3rd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/16/10/15