IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 31555 of 2015 (T)

PETITIONER:

T.D.UMMER, CONTRACTOR,
CP-II-347, TD HOUSE, THEKKIL,
CHATTANCHAL, KASARAGOD DISTRICT.

BY ADVS.SMT.K.PUSHPAVATHI
SMT.NITHYA SASI

RESPONDENT(S):
----

1. **STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**

2. **DEPUTY COMMISSIONER(APPEALS), OFFICE OF THE DEPUTY COMMISSIONER, VIDYANAGAR, KASARAGOD - 671 123.**

3. **COMMERCIAL TAX OFFICER(WORKS CONTRACT), OFFICE OF THE DEPUTY COMMISSIONER, CIVIL STATION, VIDYANAGAR, KASARAGOD - 671 123.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 31555 of 2015 (T)

APPENDIX

PETITIONERS' EXHIBITS:

EXT. P1 : A TRUE COPY OF THE PERMISSION GRANTED BY THE 3RD RESPONDENT IN FORM NO.1E TO PAY TAX UNDER COMPOUNDING SCHEME CATEGORY DATED 26.4.2012.

EXT. P2 : A TRUE COPY OF THE PRE ASSESSMENT NOTICE DATED 9.4.2015 ISSUED BY THE 3RD RESPONDENT.

EXT. P3 : A TRUE COPY OF THE OBJECTION DATED 20.5.2015 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

EXT. P4 : A TRUE COPY OF THE ORDER NO.32130489802/2012-13 DATED 24.8.2015 ISSUED BY THE 3RD RESPONDENT.

EXT. P5 : A TRUE COPY OF THE DEMAND NOITCE DATED 24.8.2015 NO.32130489802/2012-13 ISSUED BY THE ASSESSING AUTHORITY TO THE PETITIONER.

EXT. P6 : A TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT. P7 : A TRUE COPY OF THE PETITION DATED 30.9.2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR STAY OF RECOVERY OF THE AMOUNT DEMANDED IN EXHIBIT P5.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

==

W.P.(C). No. 31555 of 2015

==

Dated this the 16th 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.P4 order of assessment passed under the KVAT Act, the petitioner preferred Ext.P6 appeal and Ext.P7 stay 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.P4 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.P7 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.P4 order, shall be kept in abeyance till such time as the 2nd respondent passes orders, as directed, in Ext.P7 stay petition and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /16.10.15