

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. 31569 of 2015 (U)

PETITIONER(S):

**ALICE THANKACHAN, PROPRIETRESS,
PANACKAL ENTERPRISES, CHETHY P.O.,
CHERTHALA, ALAPPUZHA DISTRICT-688530.**

BY ADV. SRI.R.MURALIDHARAN (ARROOR)

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
DEPARTMENT OF COMMERCIAL TAXES,
CHERTHALA, ALAPPUZHA DISTRICT-688524.**
- 2. THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL,
ADDITIONAL BENCH KOTTAYAM, OPPOSITE TO NEHRU STADIUM,
NAGAMPADAM, KOTTAYAM, AT PIN-686001.**
- 3. THE DEPUTY TAHSILDAR (REVENUE RECOVERY),
TALUK OFFICE, CHERTHALA-686524.**

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:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE ASSESSMENT ORDER PASSED BY THE R1 FOR 2009-10 DATED 22/9/11**
- P2: COPY OF THE APPELLATE ORDER PASSED BY THE 1ST APPELLATE AUTHORITY DATED 5/5/15**
- P3: COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE R2 DATED 5/10/15**
- P4: COPY OF THE INTERLOCUTORY APPLICATION FOR STAY DATED 5/10/15 FILED BEFORE THE R2**
- P5: COPY OF THE DEMAND NOTICE UNDER RR.ACT DATED 2/6/13**
- P6: COPY OF THE INTERIM ORDER PASSED BY THE 1ST APPELLATE AUTHORITY DATED 14/3/14**
- P7: COPY OF THE CASH RECEIPT ON PAYMENT AS PER STAY ORDER DATED 25/3/14.**

RESPONDENTS' EXHIBIT

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 31569 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.P2 first appellate order passed under the KVAT Act, the petitioner preferred Ext.P3 appeal and Ext.P4 stay petition before the 2nd respondent. The learned counsel for the petitioner would submit that during the pendency of the adjudication proceedings before the first appellate authority, 40% of the demand against the petitioner has already been paid.

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 appeal, preferred by the petitioner before him, within a period of two months 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.P2

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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

das /16.10.15