

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. 31656 of 2015 (F)

PETITIONER(S):

**M/S.BABY MEMORIAL HOSPITAL LTD.,
INDIRA GANDHI RAOD, CALICUT,
REPRESENTED BY ITS MANAGING DIRECTOR K.G.ALEXANDER.**

**BY ADVS.SRI.K.PABDUL AZEES
SMT.T.ARCHANA**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
3RD CIRCLE, KOZHIKODE-673 004.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
KOZHIKODE-673 004.**
- 3. THE SALES TAX OFFICER (RECOVERY), COMMERCIAL TAXES,
KOZHIKODE-673 004.**
- 4. THE COMMISSIONER, COMMERCIAL TAXES,
THIRUVANANTHAPURAM-695 001.**
- 5. STATE OF KERALA, REPRESENTED BY SECRETARY (TAXES),
DEPARTMENT OF TAXES, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**

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:**

msv/

WP(C).No. 31656 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: THE TRUE COPY OF ASSESSMENT ORDER FOR THE YEAR 2010-11 PASSED BY COMMERCIAL TAX OFFICER, 3RD CIRCLE, KOZHIKODE.

EXT.P2: THE TRUE COPY OF ASSESSMENT ORDER FOR THE 2011-12 PASSED BY COMMERCIAL TAX OFFICER, 3RD CIRCLE, KOZHIKODE.

EXT.P3: THE TRUE COPY OF AFFIDAVIT IN I.A.2368/2011 FILED IN WRIT PETITION NO.7129/2008.

EXT.P4: THE TRUE COPY OF STAY ORDER IN WRIT APPEAL NO.1971/2012 PASSED BY THIS HON'BLE COURT DTD.18.10.2013.

EXT.P5: THE TRUE COPY OF APPEAL MEMORANDUM FOR THE YEAR 2010-11 FILED BEFORE THE DEPUTY COMMISSIONER (APPEALS), KOZHIKODE.

EXT.P6: THE TRUE COPY OF APPEAL MEMORANDUM FOR THE YEAR 2011-12 FILED BEFORE THE DEPUTY COMMISSIONER (APPEALS), KOZHIKODE.

EXT.P7: THE TRUE COPY OF APPLICATION FOR STAY FOR THE YEAR 2010-11 FILED BEFORE THE DEPUTY COMMISSIONER (APPEALS), KOZHIKODE.

EXT.P8: THE TRUE COPY OF APPLICATION FOR STAY FOR THE YEAR 2011-12 FILED BEFORE THE DEPUTY COMMISSIONER (APPEALS), KOZHIKODE.

EXT P9: THE TRUE COPY OF REVENUE RECOVERY NOTICE FOR THE YEAR 2010-11 ISSUED BY THE SALES TAX OFFICER (RECOVERY), KOZHIKODE.

EXT.P10: THE TRUE COPY OF REVENUE RECOVERY NOTICE FOR THE YEAR 2011-12 ISSUED BY THE SALES TAX OFFICER (RECOVERY), KOZHIKODE.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.31656 of 2015

.....
Dated this the 16th day of October, 2015

J U D G M E N T

Against Exts.P1 and P2 assessment orders under the Kerala Value Added Tax Act, the petitioner has preferred Exts.P5 and P6 appeals and Exts.P7 and P8 stay petitions 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 Exts.P9 and P10 revenue recovery notices for recovery of the amounts confirmed by Exts.P1 and P2 assessment orders.

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 Exts.P5 and P6 appeals within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps pursuant to Exts.P9 and P10 revenue recovery notices 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 adverting 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

