

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

WP(C).No. 31866 of 2015 (G)

PETITIONER(S):

**FREDERIC THOMAS, PROPRIETOR,
BETHSAIDA HERMITAGE, PULINKUDY,
MULLOOR, THIRUVANANTHAPURAM,
PIN - 695 521.**

BY ADV. SRI.V.V.GEORGEKUTTY

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER (ENQUIRY),
LUXURY TAX, THIRUVANANTHAPURAM - 695 001.**
- 2. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, THIRUVANANTHAPURAM - 695 001.**
- 3. SALES TAX APPELLATE TRIBUNAL,
SASTHAMANGALOM, THIRUVANANTHAPURAM - 695 010.**
- 4. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, NEYYATTINKARA - 695 121.**

BY GOVERNMENT PLEADER SMT.LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
20-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1: TRUE COPY OF THE ASSESSMENT ORDER DTD.10.01.2013 FOR 2008-09 ISSUED BY THE 1ST RESPONDENT.
- EXT.P1(a): TRUE COPY OF THE ASSESSMENT ORDER DTD.10.12.2013 FOR 2009-10 ISSUED BY THE 1ST RESPONDENT.
- EXT.P2: TRUE COPY OF THE APPELLATE ORDER DTD.27.5.2015 FOR 2008-09 ISSUED BY THE 2ND RESPONDENT.
- EXT.P2(a): TRUE COPY OF THE APPELLATE ORDER DTD.27.5.2015 FOR 2009-10 ISSUED BY THE 2ND RESPONDENT.
- EXT.P3: TRUE COPY OF THE APPEAL MEMORANDUM DTD.3.9.2015 AGAINST THE ASSESSMENT FOR 2008-09 FILED BEFORE THE 3RD RESPONDENT.
- EXT.P3(a): TRUE COPY OF THE APPEAL MEMORANDUM DTD.3.9.2015 AGAINST THE ASSESSMENT FOR 2009-10 FILED BEFORE THE 3RD RESPONDENT.
- EXT.P4: TRUE COPY OF THE STAY PETITION DTD.3.9.2015 FOR 2008-09 FILED BEFORE THE 3RD RESPONDENT.
- EXT.P4(a): TRUE COPY OF THE STAY PETITION DTD.3.9.2015 FOR 2009-10 FILED BEFORE THE 3RD RESPONDENT.
- EXT.P5: TRUE COPY OF THE ARREAR NOTICE FOR 2008-09 DTD.21.8.2015 ISSUED BY THE 4TH RESPONDENT.
- EXT.P5(a): TRUE COPY OF THE ARREAR NOTICE FOR 2009-10 DTD.21.8.2015 ISSUED BY THE 4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.31866 of 2015

.....
Dated this the 20th day of October, 2015

J U D G M E N T

Against Ext.P2 series of 1st appellate orders under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P3 series of appeals and Ext.P4 series of stay petitions before the 3rd respondent. It is the case of the petitioner that even prior to considering the stay petition by the 3rd respondent, recovery steps have been initiated against him through Ext.P5 series of revenue recovery notices, for recovery of the amounts confirmed by Ext.P2 series of 1st appellate 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 3rd respondent shall consider and pass orders on Ext.P4 series of stay petitions within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps pursuant to Ext.P5 series of notices shall be kept in abeyance till orders are passed by the 3rd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 3rd respondent shall be a reasoned one advertent 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**

