

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 21ST DAY OF OCTOBER 2015/29TH ASWINA, 1937

WP(C).No. 32242 of 2015 (E)

PETITIONER(S):

**M/S.ROCHE DIAGNOSTIC INDIA (P) LTD.,
501 B, SILVER UTOPIA, GARDINAL GRACIOUS ROAD,
CHAKAALA ANDHERY EAST, MUMBAI,
HAVING REGIONAL OFFICE AT PLOT NO.117/3B
AND 117/3C, DOOR NO.2, NAMBAL, PADMAVATHY MANSONS,
VELAPPANCHAVAD P.O., THIRUVERKADU,
CHENNAI - 600 077, TIN - 3316622408, CST NO.73250,
REPRESENTED BY ITS AUTHORIZED PERSON
SAJIKUMAR V.N.**

**BY ADVS.SRI.SREEKANTH S.NAIR
SRI.S.JATHIN DAS**

RESPONDENT(S):

- 1. STATE OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001,
REPRESENTED BY ITS CHIEF SECRETARY.**
- 2. THE DEPUTY COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
GOVERNMENT OF KERALA, TAX TOWERS,
KARAMANA P.O., THIRUVANANTHAPURAM - 695 002.**
- 3. THE COMMERCIAL TAX OFFICER (ENQUIRY),
OFFICE OF THE DEPUTY COMMISSIONER
COMMERCIAL TAXES, KARAMANA P.O.,
THIRUVANANTHAPURAM - 695 002.**
- 4. CITY BANK NA, MUMBAI, FORT HOUSE,
4TH FLOOR, UNIT1/224, DR.DN ROAD,
FORT MUMBAI 400 001, REPRESENTED BY ITS
BRANCH MANAGER.**

R1-R3 BY GOVERNMENT PLEADER SMT.LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 32242 of 2015 (E

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF AGREEMENT DTD.14.2.2007 BETWEEN PETITIONER AND
M/S.KIMS HOSPITAL, THIRUVANANTHAPURAM.**

**EXT.P2: TRUE COPY OF THE ORDER NO.CTET.B4-4A/11-12 DTD.29.2015 ISSUED BY
3RD RESPONDENT.**

**EXT.P3: TRUE COPY OF THE LETTER NO.CTET.B4-4A/11-12 DTD.7.10.2015 ISSUED BY
3RD RESPONDENT.**

**EXT.P4: TRUE COPY OF UNNUMBERED R.P.NO. /2015 DTD.17.10.2015 SUBMITTED BY
PETITIONER BEFORE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/+

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.32242 of 2015
.....
Dated this the 21st day of October, 2015

J U D G M E N T

Against Ext.P2 penalty order, the petitioner has preferred Ext.P4 revision petition before the 2nd respondent. It is stated that, along with Ext.P4 revision petition the petitioner has also preferred a stay petition. The grievance of the petitioner in the writ petition is that, even before the stay petition is considered by the 2nd respondent, he has been served with Ext.P3 communication which is addressed by the 3rd respondent to the 4th respondent seeking to invoke the bank guarantee that was furnished by the petitioner during the pendency of the penalty proceedings before the Intelligence Officer.

2. Heard the learned counsel for the petitioner and 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 Ext.P4 revision petition within a period of one month from the date of receipt of

a copy of this judgment, after hearing the petitioner.

ii. I make it clear that, till such time as orders are passed by the 2nd respondent on Ext.P4 revision petition and communicated to the petitioner. Further steps for recovery of amounts confirmed against the petitioner by Ext.P2 penalty order, including further steps pursuant to Ext.P3, shall be kept in abeyance.

A.K.JAYASANKARAN NAMBIAR
JUDGE