

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

WP(C).No. 32611 of 2015 (B)

PETITIONER(S):

**M/S.NOVA FURNITURE,
NO.11/265A, EDAKKATTUVAYAL P.O.,
CHETHIKODE - 682 315, ERNAKULAM DISTRICT.
RESPRESENTED BY ITS MANAGING PARTNER,
SRI.SABU C.J.**

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT(S):

- 1. INTELLIGENCE OFFICER,
COMMERCIAL TAXES, SQUAD NO.VI,
ERNAKULAM, COCHIN - 682 024.**
- 2. COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES, 1ST CIRCLE,
THRIPUNITHURA - 682 301.**
- 3. DEPUTY COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM,
COCHIN - 682 015.**
- 4. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, KAKKANAD,
COCHIN - 682 030.**

BY GOVERNMENT PLEADER SMT.LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 32611 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF ORDER IMPOSING PENALTY DTD.31.3.2015 ISSUED TO PETITIONER BY 1ST RESPONDENT U/S.67(1) OF THE KVAT ACT FOR THE YEAR 2012-13.

EXT.P2: TRUE COPY OF REVISION DTD.21.10.2015 SUBMITTED BY PETITIONER, AGAINST EXT.P1 PENALTY, BEFORE 3RD RESPONDENT.

EXT.P3: TRUE COPY OF PETITION DTD.21.10.2015, FOR CONDONING DELAY IN FILING EXT.P2 REVISION, SUBMITTED BEFORE 3RD RESPONDENT.

EXT.P4: TRUE COPY OF STAY PETITION DTD.21.10.2015, SUBMITTED BEFORE 3RD RESPONDENT ALONG WITH EXT.P2 REVISION.

EXT.P5; TRUE COPY OF REVENUE RECOVERY NOTICE IN FORM NO.1 DTD.15.9.015 ISSUED TO PETITIONER BY 4TH RESPONDENT, PURSUANT TO EXT.P1 DEMAND.

EXT.P6: TRUE COPY OF NOTICE U/S.25(1) FOR COMPLETING BEST JUDGMENT ASSESSMENT, BASED ON EXT.P1 PENALTY, ISSUED TO PETITIONER BY 2ND RESPONDENT FOR 2012-13.

EXT.P7: TRUE COPY OF REPLY DTD.22.10.2015 SUBMITTED BY PETITIONER, BEFORE 2ND RESPONDENT AGAINST EXT.P6 NOTICE.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.32611 OF 2015 (B)

Dated this the 27th day of October, 2015

J U D G M E N T

Against Ext.P1 penalty order under the KVAT Act, the petitioner had preferred Ext.P2 revision before the 3rd respondent. Along with the revision, the petitioner had also preferred Ext.P3 delay condonation petition and Ext.P4 stay petition before the 3rd respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are taken by the respondents against the petitioner, through Ext.P5 revenue recovery notice as confirmed by Ext.P1 penalty order.

2. I have heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing for the respondents.

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:

1. The 3rd respondent shall consider and pass orders on Ext.P3 delay condonation petition and Ext.P4 stay petition within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

2. Recovery steps for recovery of amounts confirmed against petitioner pursuant to Ext.P1 penalty order shall be kept in abeyance till orders are passed by the 3rd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/27/10/15