

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937**

**WP(C).No. 33162 of 2015 (U)**  
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**PETITIONER(S) :**  
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**FANCY GLASS EMPORIUM, POPULAR COMPLEX,  
NH ROAD, PRUMBA, PAYYANNUR, KANNUR DISTRICT,  
REPRESENTED BY ITS MANAGING PARTNER  
SRI.THEYAL NOORUDHEEN,**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)  
SRI.K.S.HARIHARAN NAIR**

**RESPONDENT(S) :**  
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- 1. THE ASST.COMMISSIONER (KVAT),  
COMMERCIAL TAXES, KANNUR- 670 002.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),  
COMMERCIAL TAXES, NIRMAL ARCADE, ERANHIPPALAM,  
KOZHIKODE- 673 006.**
- 3. THE INSPECTING ASST.COMMISSIONER,  
COMMERCIAL TAXES, KANNUR- 670 002.**

**BY GOVERNMENT PLEADER SMT.LILLY.K.T**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 30-10-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

Msd.

**WP(C).No. 33162 of 2015 (U)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS :**  
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**EXHIBIT P1: COPY OF ASSESSMENT ORDER DATED 30.03.2015 ISSUED BY  
THE 1ST RESPONDENT FOR THE YEAR 2012-2013.**

**EXHIBIT P2: COPY OF APPEAL MEMORANDUM AGAINST EXT.P1.**

**EXHIBIT P3: COPY OF STAY PETITION IN EXT.P2 APPEAL.**

**EXHIBIT P4: COPY OF NOTICE DATED 21.10.2015 ISSUED BY  
THE 3RD RESPONDENT UNDER THE RR ACT.**

**RESPONDENT(S)' EXHIBITS :**  
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**NIL**

**//TRUE COPY//**

**P.A.TO JUDGE.**

Msd.

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C).NO.33162 OF 2015**  
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**Dated this the 30<sup>th</sup> day of October, 2015**

**J U D G M E N T**

Against Exts.P1 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P2 appeal and Ext.P3 stay petition before the 2<sup>nd</sup> respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued through Ext.P4 revenue recovery notices for recovery of the amounts confirmed by Ext.P1 assessment order.

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 2<sup>nd</sup> respondent shall consider and pass orders on Ext.P3 stay petition 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.P4 revenue recovery notice shall be kept in abeyance till orders are passed by the 2<sup>nd</sup> respondent as

directed above and communicated to the petitioner.

iii. The order to be passed by the 2<sup>nd</sup> 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/revision.

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

