

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

WP(C).No. 33211 of 2015 (B)

PETITIONER :

**C.R. SUBRAMANIAN POTTY, AGED 58 YEARS,
TRISTAR MARKETING, X/518, 'GOKULAM',
OPPOSITE VHSS, SEAPORT AIRPORT ROAD,
KARINGACHIRA, IRUMPANAM, ERNAKULAM-682309.**

BY ADV. SRI.R.MURALIDHARAN (AROOOR)

RESPONDENTS :

- 1. THE COMMERCIAL TAX OFFICER,
KVAT CIRCLE -II, DEPARTMENT OF COMMERCIAL TAXES,
TRIPUNITHURA, ERNAKULAM - 682301.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM - 682015.**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM AT KAKKANAD, KOCHI - PIN - 682030.**

BY GOVERNMENT PLEADER SMT. LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE ASSESSMENT ORDER PASSED BY THE R1 UNDER KVAT ACT, FOR 2012-2013, DT 30/6/2015.**
- P2: COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE R2 AGAINST EXT P1 ORDER DT 16/7/2015.**
- P3: COPY OF THE INTERLOCUTORY APPLICATION FOR STAY FILED BY THE PETITIONER BEFORE THE R2 DT 16/7/2015.**
- P4: COPY OF THE DEMAND NOTICE ISSUED UNDER THE RR ACT, BY THE R3 DT 6/10/2015.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33211 OF 2015

Dated this the 2nd day of November, 2015

J U D G M E N T

Against Ext.P1 assessment order passed under the Kerala Value Added Tax Act, the petitioner preferred Ext.P2 appeal and P3 stay petition 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 for recovery of the amounts confirmed by Ext.P1 assessment order.

2. I have 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.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 for recovery of amounts confirmed against the petitioner by Ext.P1 assessment order 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 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

