

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. 33282 of 2015 (I)

PETITIONER :

**ANCHERY DISTRIBUTORS,
KUTTUMUKKU, RAMAVARMAPURAM, THRISSUR,
REPRESENTED BY ITS PARTNER- A.J.JOY.**

**BY ADVS.SRI.K.I.MAYANKUTTY MATHER
SRI.R.JAIKRISHNA**

RESPONDENT(S):

- 1. ASSISTANT COMMISSIONER-III,
SPECIAL CIRCLE, COMMERCIAL TAX OFFICE,
THRISSUR-680 001**
- 2. THE VALUE ADDED TAX APPELLATE TRIBUNAL,
COMMERCIAL TAXES, ERNAKULAM-682 015,
REPRESENTED BY ITS SECRETARY.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, POOTHOLE, THRISSUR-680 004**
- 4. DHANALAXMI BANK, HIGH ROAD BRANCH, X/1274,
BASILICA PLATINUM JUBILEE BUILDINGS, NEW CHURCH ROAD,
THRISSUR-680 001, REPRESENTED BY ITS BRANCH MANAGER.**
- 5. HDFC BANK, KMS BUILDING, PALACE ROAD,
NEAR GOVERNMENT MODEL BOYS HIGH SCHOOL,
THRISSUR-680 020, REPRESENTED BY ITS BRANCH MANAGER.**

**R1 TO R3 BY GOVERNMENT PLEADER SMT. K.T.LILLY
R4 BY SRI.C.K.KARUNAKARAN,SC,DHANALAKSHMI BANK
R5 BY SRI.T.RAJESH,SC, HDFC BANK**

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

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE ASSESSMENT ORDER FOR THE AY-2008-2009 (KVAT) DATED 27/8/2011
- P2 COPY OF THE ASSESSMENT ORDER FOR THE AY-2009-2010 (KVAT) DATED 31/8/2011
- P3 COPY OF THE ORDER OF THE DEPUTY COMMISSIONER (APPEALS), ERNAKULAM DATED 20/8/2015
- P4 COPY OF THE ORDER OF THE DEPUTY COMMISSIONER (APPEALS), ERNAKULAM DATED 20/8/2015
- P5 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE AY-2008-2009 (KVAT) DATED 14/10/2015
- P5(A) COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE AY-2008-2009 (KVAT) DATED 14/10/2015
- P6 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE AY-2009-2010 (KVAT) DATED 14/10/2015.
- P6(A) COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE AY-2009-2010 (KVAT) DATED 14/10/2015
- P7 COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY THE 3RD RESPONDENT DATED 13/10/2015.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33282 OF 2015

Dated this the 2nd day of November, 2015

J U D G M E N T

Against Exts.P3 and P4 first appellate orders under the Kerala Value Added Tax Act, the petitioner preferred Exts.P5 and P6 appeals and P5(a) and P6(a) stay petitions before the 2nd respondent. It is submitted by counsel for the petitioner that the petitioner intends to avail the statutory benefit under Section 72 A by paying 30% of the amounts confirmed against the petitioner by Exts.P3 and P4 first appellate orders pending disposal of the appeals by the 2nd respondent. It is submitted that on account of the freezing of the bank account maintained with the respondents 4 and 5, the petitioner is not in a position to operate the accounts for transacting his business.

2. I have heard the learned counsel for the petitioner, the learned Standing counsel for the 4th respondent and the learned Government Pleader.

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 Exts.P5 and P6 appeals within a period of three months from the date of receipt of a copy of this judgment, after hearing the petitioner. The petitioner shall pay 30% of the amounts confirmed against him by Exts.P3 and P4 1st appellate orders within a period of one month from today. To enable the petitioner do to so, I direct that the attachments over the bank accounts maintained by the petitioner with the 4th and 5th respondents shall be lifted and shall not be attached during the pendency of the appeal before the 2nd respondent. The petitioner shall produce a copy of the writ petition together with a copy of this judgment before the respondents 2, 4, and 5 for further action.

A.K.JAYASANKARAN NAMBIAR
JUDGE

