

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

WP(C).No. 33460 of 2015 (F)

PETITIONER :

**M/S. K.RAVINDRAN, 28/309 A1, 'NATH',
THONDAYAD, KOTTOOLI ROAD, CALICUT,
REPRESENTED BY ITS MANAGING PARTNER, V.RAJENDRANATH.**

**BY ADVS.SRI.K.PABDUL AZEES
SMT.T.ARCHANA**

RESPONDENT(S):

- 1. ASSISTANT COMMISSIONER (AUDIT ASSESSMENT),
KOZHIKODE-673 004.**
- 2. DEPUTY COMMISSIONER (APPEALS),
KOZHIKODE-673 004**
- 3. SALES TAX OFFICER (RECOVERY),
O/O DY. COMMISSIONER COMMERCIAL TAXES DEPT,
KOZHIKODE-673 004**
- 4. THE COMMISSIONER, COMMERCIAL TAXES,
THIRUVANANTHAPURAM-695 001**
- 5. STATE OF KERALA,
REPRESENTED BY SECRETARY (TAXES), SECRETARIAT,
THIRUVANANTHAPURAM-695 001**

BY GOVERNMENT PLEADER SMT. LILLY.K.T

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE WORK ORDER FOR ROAD SAFETY WORKS FROM 102/000 TO 132/000 AND CONSTRUCTION OF RETAINING WALL DATED 11/07/2013**
- P2 COPY OF THE WORK ORDER FOR PROVIDING CRASH BARRIERS AT ERATTUPETTA- PEERUMEDU ROAD DATED 17/08/2012**
- P3 COPY OF THE WORK ORDER FOR NH 17 (NEW NH 66) CONSTRUCTION OF 16 KM TWO LINE ROAD FROM KUTTIPPURAM TO PUTHUPONNANI DATED 10/06/2013**
- P4 COPY OF THE WORK ORDER FOR IRQP FROM KM 55/000 TO 66/000 OF NH 212**
- P5 COPY OF THE ASSESSMENT ORDER NO.AV (AC-1)/2015-16 (02)/32111546275 (YEAR) 2014-15 DATED 17/08/2015 BY ASSISTANT COMMISSIONER, (AUDIT ASSESSMENT), COMMERCIAL TAXES KOZHIKODE**
- P6 COPY OF THE RECTIFICATION PETITION UNDER SECTION 66 OF THE KERALA VALUE ADDED TAX ACT 2003 FILED BEFORE ASSISTANT COMMISSIONER (AUDIT ASSESSMENT), COMMERCIAL TAXES, KOZHIKODE**
- P7 COPY OF THE APPEAL MEMORANDUM FILED BEFORE THE DEPUTY COMMISSIONER (APPEALS), KOZHIKODE**
- P8 COPY OF THE PETITIONS FOR STAY FILED BEFORE THE DEPUTY COMMISSIONER (APPEALS), KOZHIKODE**
- P9 COPY OF THE ADVANCEMENT OF HEARING FILED BEFORE THE DEPUTY COMMISSIONER (APPEALS), KOZHIKODE**
- P10 COPY OF THE REVENUE RECOVERY NOTICE DATED 17/10/2015 ISSUED BY SALES TAX OFFICER (RECOVERY), KOZHIKODE**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 33460 of 2015

Dated this the 3rd day of November, 2015

JUDGMENT

The Petitioner is an assessee under the Kerala Value Added Tax Act, 2003, hereinafter referred to as the "KVAT Act". Against Ext.P5 order of assessment passed under the KVAT Act, the petitioner preferred Ext.P7 appeal and Ext.P8 stay petition before the 2nd respondent. The grievance of the petitioner is that even before considering the stay petition, the respondents are taking steps to recover the amounts confirmed against the petitioner by Ext.P5 order.

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

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ petition with a direction to the 2nd respondent to consider and pass orders on Ext.P8 stay petition, preferred by the petitioner before him, within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner. The recovery steps for recovery of amounts confirmed against the petitioner by Ext.P5

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order, shall be kept in abeyance till such time as the 2nd respondent passes orders, as directed, in Ext.P8 stay petition and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /03.11.15