

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 33638 of 2015 (D)

PETITIONER :

**C.V.RADHAKRISHNAN,
M/S. RENJITH SAW MILL AND TIMBER,
MUDAPPALLUR, PALAKKAD-678 705**

**BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON
SRI.MAHESH V.MENON
SRI.A.RIYAS (MANJAPPARA)**

RESPONDENT(S):

- 1. THE ASST. COMMISSIONER (ASSESSMENT),
SPECIAL CIRCLE, COMMERCIAL TAXES,
PALAKKAD-678 001**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM-662 013.**

BY GOVERNMENT PLEADER SMT. LILLY.K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE ASSESSMENT ORDER ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER FOR THE YEAR 2012-13 DATED 06/06/2015**
- P1(A) COPY OF THE ASSESSMENT ORDER ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER FOR THE YEAR 2013-14 DATED 29/06/2015**
- P2 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 24/07/2015**
- P2(A) COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 25/07/2015**
- P3 COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 24/07/2015**
- P3(A) COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 24/07/2015**
- P4 COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT DATED 21/10/2015.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.33638 of 2015

.....
Dated this the 6th day of November, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P4 conditional order of stay that was passed by the 2nd respondent in appeals preferred by the petitioner challenging the assessments under the Kerala Value Added Tax Act for the assessment years 2012-2013 and 2013-2014. The grievance of the petitioner in the writ petition is essentially that, while passing Ext.P4 order in the stay applications filed along with the appeals, the 2nd respondent did not exercise his discretion validly.

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

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find from a perusal of Ext.P4 order that the 2nd respondent has considered the submissions made by the petitioner at the time of arguing the stay petition, and has given reasons for the direction to pay 30% of the balance demand for both the years as a condition for grant of stay. It is also found by the 2nd respondent appellate authority that the petitioner did not produce any documents to substantiate his contention at the time of hearing. I therefore, see no reason to

interfere with Ext.P4 conditional order of stay passed by the 2nd respondent in these proceedings under Article 2256 of the Constitution of India. The writ petition in its challenge against Ext.P4 order is therefore dismissed.

Counsel for the petitioner would submit that he would require some time to comply with the directions in Ext.P4 order. Taking note of the plea of financial hardship urged on behalf of the petitioner, I direct that, if the petitioner complies with the directions in Ext.P4 order on or before 30.11.2015 then, the same shall be treated as in compliance with the directions in Ext.P4 order and the 2nd respondent shall proceed to decide the appeals on merits after hearing the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

