

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).No. 33909 of 2015 (K)

PETITIONER(S):

**M/S. KAIRALI CEMENT COMPANY,
VIII/896, PATRONET ROAD, WISE PARK,
KANJIKODE EAST P.O, PALAKKAD - 678 621,
REPRESENTED BY ITS MANAGING PARTNER,
VINEETH VINCENT.**

BY ADV. SRI.TOMSON T. EMMANUEL

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES, 3RD CIRCLE, PALAKKAD - 678 001.**
- 2. ASSISTANT COMMISSIONER (APPEALS),
COMMERCIAL TAXES, SALES TAX COMPLEX,
PALAKKAD - 678 001.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, SALES TAX COMPLEX,
PALAKKAD - 678 001.**

BY GOVERNMENT PLEADER SRI.RANJITH

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

msv/

WP(C).No. 33909 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

P1-TRUE COPY OF THE LETTER DATED 22/09/2015 SUBMITTED BY PETITIONER AGAINST PRE-ASSESSMENT NOTICE, REQUESTING FURTHER TIME, SINCE STATUTORY AUDIT FOR 2014-15 WAS IN PROGRESS.

P2-TRUE COPY OF THE ORDER DATED 30/09/2015 U/S 25 (1) FOR THE YEAR 2014-15 ISSUED TO PETITIONER ON 23/10/2015 BY THE 1ST RESPONDENT, WITHOUT ALLOWING FURTHER TIME.

P3-TRUE COPY OF THE APPEAL DATED 23/10/2015 SUBMITTED BY THE PETITIONER AGAINST EXHIBIT-P2 ILLEGAL ASSESSMENT, BEFORE 2ND RESPONDENT

P4-TRUE COPY OF THE STAY PETITIONER DATED 23/10/2015 SUBMITTED BY THE PETITIONER, ALONG WITH EXHIBIT-P3, BEFORE 2ND RESPONDENT.

P5-TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 30/10/2015 IN FORM NO. 1 AND FORM NO. 25 ISSUED TO PETITIONER BY 3RD RESPONDENT, PURSUANT TO EXHIBIT-P1 DEMAND.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.33909 of 2015
.....
Dated this the 11th day of November, 2015

J U D G M E N T

Against Ext.P2 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P3 appeal and Ext.P4 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.P2 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 2nd respondent shall consider and pass orders on Ext.P4 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 petitioner by Ext.P2 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

mns/11.11.15

