

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. 33986 of 2015 (W)

PETITIONER(S):

**ABDUL KHADER, AGED 36 YEARS,
S/O.ISMAIL, MANAGING PARTNER, SPEON ENGINEERING,
NELLIKURISSI ROAD, LAKKIDI, PALAKKAD DISTRICT**

BY ADV. SRI.S.MURALI

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TAXES,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM - 695 001.**
- 2. COMMERCIAL TAX OFFICER,
COMMERCIAL TAX OFFICE, OTTAPALAM,
PALAKKAD DISTRICT - 678 001.**
- 3. DEPUTY COMMISSIONER OF COMMERCIAL TAXES (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES, GOVERNMENT OF KERALA,
PALAKKAD - 678 001.**

BY GOVERNMENT PLEADER SMT.LILLY K.T.

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

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

**P1:TRUE COPY OF THE ASSESSMENT ORDER NO.32091012527/2010-2011
DATED 28.09.2015 FOR THE FINANCIAL YEAR 2010-2011 OF 2ND RESPONDENT**

**P2:TRUE COPY OF THE ASSESSMENT ORDER NO.32091012527/2010-2011
DATED 28.09.2015 FOR THE FINANCIAL YEAR 2011-2012 OF 2ND RESPONDENT**

**P3:TRUE COPY OF THE ASSESSMENT ORDER NO.32091012527/2010-2011
DATED 28.09.2015 FOR THE FINANCIAL YEAR 2013-2014 OF 2ND RESPONDENT**

**P4:TRUE COPY OF THE APPEAL FILED BEFORE 3RD RESPONDENT DATED 25.10.2015
CHALLENGING EXHIBIT P1 ASSESSMENT ORDER**

**P5:TRUE COPY OF THE APPEAL FILED BEFORE 3RD RESPONDENT DATED 25.10.2015
CHALLENGING EXHIBIT P2 ASSESSMENT ORDER**

**P6:TRUE COPY OF THE APPEAL FILED BEFORE 3RD RESPONDENT DATED 25.10.2015
CHALLENGING EXHIBIT P3 ASSESSMENT ORDER**

**P7:TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR THE RELIEF OF STAY
OF COLLECTION OF TAX FOR EXHIBIT P4 APPEAL FILED BEFORE THE
3RD RESPONDENT DATED 25.10.2015**

**P8:TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR THE RELIEF URGENT
HEARING FOR EXHIBIT P4 FILED BEFORE 3RD RESPONDENT DATED 25.10.2015**

**P9:TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR THE RELIEF OF STAY
OF COLLECTION OF TAX FOR EXHIBIT P5 APPEAL FILED BEFORE THE
3RD RESPONDENT DATED 25.10.2015**

**P10:TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR THE RELIEF URGENT
HEARING FOR EXHIBIT P5 FILED BEFORE 3RD RESPONDENT DATED 25.10.2015**

**P11:TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR THE RELIEF OF STAY
OF COLLECTION OF TAX FOR EXHIBIT P6 APPEAL FILED BEFORE THE 3RD
RESPONDENT DATED 25.10.2015**

**P12:TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR THE RELIEF URGENT
HEARING FOR EXHIBIT P6 FILED BEFORE 3RD RESPONDENT DATED 25.10.2015**

P13:TRUE COPY OF THE E PAYMENT RECEIPT FOR EXHIBIT P4 APPEAL

**P13 A:TRUE COPY OF THE E PAYMENT RECEIPT OF INTERLOCUTORY APPLICATION
FOR THE RELIEF OF STAY OF COLLECTION FOR EXHIBIT P4 APPEAL**

msv/

WP(C).No. 33986 of 2015 (W)

**P13 B:TRUE COPY OF THE E PAYMENT RECEIPT OF INTERLOCUTORY APPLICATION
FOR THE RELIEF OF URGENT HEARING FOR EXHIBIT P4 APPEAL**

P14:TRUE COPY OF THE E PAYMENT RECEIPT FOR EXHIBIT P5 APPEAL

**P14 A:TRUE COPY OF THE E PAYMENT RECEIPT OF INTERLOCUTORY APPLICATION
FOR THE RELIEF OF STAY OF COLLECTION FOR EXHIBIT P5 APPEAL**

**P14 B:TRUE COPY OF THE E PAYMENT RECEIPT OF INTERLOCUTORY APPLICATION
FOR THE RELIEF OF URGENT HEARING FOR EXHIBIT P5 APPEAL**

P15:TRUE COPY OF THE E PAYMENT RECEIPT FOR EXHIBIT P5 APPEAL

**P15 A:TRUE COPY OF THE E PAYMENT RECEIPT OF INTERLOCUTORY APPLICATION
FOR THE RELIEF OF STAY OF COLLECTION FOR EXHIBIT P6 APPEAL**

**P15 B:TRUE COPY OF THE E PAYMENT RECEIPT OF INTERLOCUTORY APPLICATION
FOR THE RELIEF OF URGENT HEARING FOR EXHIBIT P6 APPEAL**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.33986 of 2015

Dated this the 11th day of November 2015

JUDGMENT

Against Exts.P1, P2 and P3 assessment orders under the KVAT Act, the petitioner has preferred Exts.P4, P5 and P6 appeals and Exts.P7, P8 and P9 stay petitions before the 3rd 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 Exts.P1, P2 and P3 assessment orders.

2. I have heard the learned counsel for the petitioner and also 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 3rd respondent shall consider and pass orders on Exts.P7, P8 and P9 stay petitions within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii) Recovery steps for recovery of amounts confirmed against the petitioner by Exts.P1, P2 and P3 assessment orders shall be kept in abeyance till orders are passed by the 3rd respondent as directed above and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/