

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. 33996 of 2015 (Y)

PETITIONER:

**MOHAMMED NOOR, AGED 62 YEARS,
S/O.C.M. SAIDU MOHAMMED, MANAGING PARTNER,
ASI REFINERY, 10/285, MAMBRA,
KODUNTHIRAPULLY, PALAKKAD.**

BY ADV. SRI.S.MURALI.

RESPONDENTS:

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

BY GOVT. 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:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1:- TRUE COPY OF THE ASSESSMENT ORDER NO 32090530612/2013-2014
DTD. 29/06/2015 FOR THE FINANCIAL YEAR 2013-214 OF 2ND RESPONDENT.
- P2:- TRUE COPY OF APPEAL FILED BEFORE 3RD RESPONDENT DTD. 25/09/2015
CHALLENGING EXT P2 ASSESSMENT ORDER.
- P3:- TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR CONDONATION OF
DELAY FOR EXT P2 APPEAL FILED BEFORE 3RD RESPONDENT
DTD. 06/10/2015.
- P4:- TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR THE RELIEF OF
STAY OF COLLECTION OF TAX FOR EXT P2 APPEAL FILED BEFORE
3RD RESPONDENT DTD. 06/10/2015.
- P5:- TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR THE RELIEF OF
URGENT HEARING FOR EXT P2 APPEAL FILED BEFORE 3RD RESPONDENT
DTD. 06/10/2015.
- P6:- TRUE COPY OF THE E-PAYMENT RECEIPT FOR EXT P2 APPEAL.
- P6(A):-TRUE COPY OF THE E-PAYMENT RECEIPT OF INTERLOCUTORY
APPLICATION FOR CONDONATION OF DELAY FOR EXT P2 APPEAL
DATED NIL.
- P6(B):-TRUE COPY OF THE E-PAYMENT RECEIPT OF INTERLOCUTORY
APPLICATION FOR THE RELIEF OF STAY FOR EXT P2 APPEAL DATED NIL.
- P6(C):-TRUE COPY OF THE E-PAYMENT RECEIPT OF INTERLOCUTORY
APPLICATION FOR THE RELIEF OF URGENT HEARING FOR EXT P2 APPEAL
DATED NIL.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.33996 of 2015

Dated this the 11th day of November 2015

JUDGMENT

Against Ext.P1 assessment order under the KVAT Act, the petitioner has preferred Ext.P2 appeal, Ext.P3 delay condonation petition and Ext.P4 stay petition 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 Ext.P1 assessment order.

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 Ext.P3 delay condonation petition and 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) Recovery steps for recovery of amounts confirmed against petitioner by Ext.P1 assessment order 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/