

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 34381 of 2015 (W)

PETITIONER(S) :

**M.NAGARATHINAM, AGED 55 YEARS,
S/O.MUTHAYYA, PROPRIETOR, M/S.ULTRA POLYMERS,
BUILDING NO.510, INDUSTRIAL DEVELOPMENT AREA,
ERUMATHALA P.O., ALUVA.**

**BY ADVS.SRI.K.M.FIROZ
SMT.M.SHAJNA
SRI.S.KANNAN**

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER,
2ND CIRCLE, PERUMBAVOOR- 683 542.**
- 2. ASSISTANT COMMISSIONER (APPEALS),
COMMERCIAL TAXES DEPARTMENT, ERNAKULAM- 682 015.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES, MUVATTUPUZHA- 683 572.**

BY GOVERNMENT PLEADER SRI.RENJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: A TRUE COPY OF THE ASSESSMENT ORDER FOR
THE ASSESSMENT YEAR 2011-12 UNDER THE KVAT ACT
DATED 07.03.2015.**

**EXHIBIT P2: TRUE COPY OF THE APPEAL PETITION DATED 10.06.2015 FILED
BY THE PETITIONER AGAINST THE ASSESSMENT YEAR 2011-12
UNDER THE KVAT ACT BEFORE THE SECOND RESPONDENT.**

**EXHIBIT P3: TRUE COPY OF THE STAY PETITION DATED 10.06.2015 FILED BY
THE PETITIONER FOR THE ASSESSMENT YEAR 2011-12 BEFORE
THE SECOND RESPONDENT.**

**EXHIBIT P4: TRUE COPY OF THE DEMAND NOTICE UNDER THE RR ACT
DATED 17.08.2015 FOR THE ASSESSMENT YEAR 2011-12 UNDER
THE KVAT ACT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

PA.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 34381 of 2015

Dated this the 13th day of November, 2015

JUDGMENT

The Petitioner is a registered dealer under the Kerala Value Added Tax Act, 2003, hereinafter referred to as the "KVAT Act". Against Ext.P1 order of assessment passed under the KVAT Act, the petitioner preferred Ext.P2 appeal and Ext.P3 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.P1 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.P3 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.P1

W.P.(C). No. 34381 of 2015

order, shall be kept in abeyance till such time as the 2nd respondent passes orders, as directed, in Ext.P3 stay petition and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /13.11.15