

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. 34407 of 2015 (A)

PETITIONER(S) :

**M/S.KIRTILAL KALIDAS JWELLERS P LTD., DOOR NO.CC, 40/1019,
PERUMBILLIL BUILDING, OPPOSITE MAHARAJAS COLLEGE GROUNDS,
M.G.ROAD, ERNAKULAM, REPRESENTED BY IT'S
STORE OPERATION MANAGER MR.J.MURUGANANDAM.**

BY ADV. SMT.K.LATHA

RESPONDENT(S) :

- 1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY
TO THE GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM- 695 001.**
- 2. THE ASSISTANT COMMISSIONER-II, SPECIAL CIRCLE COMMERCIAL
TAXES, KALAMASSERY, ERNAKULAM- 682 031.**
- 3. THE SECRETARY, KERALA VALUE ADDED TAX APPELLATE TRIBUNAL,
6TH FLOOR, COMMERCIAL TAX BUILDING, THEVERA,
ERNAKULAM- 682 035.**
- 4. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, KAKKANAD, ERNAKULAM- 682 031.**

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: THE TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2009-2010 DATED 26.06.2013 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.

EXHIBIT P1(A): THE TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2010-2011 DATED 26.06.2013 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.

EXHIBIT P2: THE TRUE COPY OF THE FIRST APPELLATE ORDER ISSUED BY THE DEPUTY COMMISSIONER (APPEALS)-II, COMMERCIAL TAXES ERNAKULAM TO THE PETITIONER FOR THE YEAR 2009-2010 DATED 20.02.2015.

EXHIBIT P2(A): THE TRUE COPY OF THE FIRST APPELLATE ORDER ISSUED BY THE DEPUTY COMMISSIONER (APPEALS)-II, COMMERCIAL TAXES ERNAKULAM TO THE PETITIONER FOR THE YEAR 2010-2011 DATED 23.02.2015.

EXHIBIT P3: THE TRUE COPY OF THE APPEAL IN FORM NO.31 ALONG WITH GROUND OF APPEAL FILED BY THE PETITIONER BEFORE THE THIRD RESPONDENT FOR THE YEAR 2009-2010.

EXHIBIT P3(A): THE TRUE COPY OF THE APPEAL IN FORM NO.31 ALONG WITH GROUND OF APPEAL FILED BY THE PETITIONER BEFORE THE THIRD RESPONDENT FOR THE YEAR 2010-2011.

EXHIBIT P4: THE TRUE COPY OF FORM NO.30 AND IT'S STAY PETITION ALONG WITH FORM NO.30 AND IT'S CONDONATION DELAY PETITION FOR THE YEAR 2009-2010 FILED BY THE PETITIONER BEFORE THE THIRD RESPONDENT IN THE P3.

EXHIBIT P4(A): THE TRUE COPY OF FORM NO.30 AND IT'S STAY PETITION ALONG WITH FORM NO.30 AND IT'S CONDONATION DELAY PETITION FOR THE YEAR 2010-2011 FILED BY THE PETITIONER BEFORE THE THIRD RESPONDENT IN THE P3A APPEALS.

EXHIBIT P5: THE TRUE COPY OF THE DEMAND NOTICE IN FORM NO.12 FOR THE EYARS 2009-2010 DATED 26.06.2013 AND 2010-2011 DATED 17.07.2013 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.

EXHIBIT P5(A): THE TRUE COPY OF THE DEMAND NOTICE IN FORM NO.12 FOR THE EYARS 2009-2010 DATED 26.06.2013 AND 2010-2011 DATED 17.07.2013 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.

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**EXHIBIT P6: THE TRUE COPY OF THE HEARING NOTICE IN FORM G
DATED 3RD NOVEMBER 2015 ISSUED BY THE THIRD
RESPONDENT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 34407 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.P2 series of first appellate orders passed under the KVAT Act, the petitioner preferred Ext.P3 series of second appeal s and Ext.P4 series of delay condonation applications and stay petitions before the 3rd respondent Tribunal. It is the case of the petitioner that even before the consideration of the stay petition by the 3rd respondent, recovery steps have been initiated against him through Ext.P5 series of revenue recovery notices, for recovery of the amount confirmed in the assessment orders.

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 3rd respondent Tribunal to consider and pass orders on Ext.P4 series of delay condonation applications and stay petitions, 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. Coercive steps pursuant to Ext.P5 series of recovery notices, shall be kept in abeyance till such time as the 3rd respondent Tribunal passes orders, as directed.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE