

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C).No. 34602 of 2015 (A)

PETITIONER :

**ABDUL SHAREEF M.,
PROPRIETOR, MODERN STEELS & CEMENTS,
VELLAMUNDA, MANATHAVADY.**

**BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN**

RESPONDENTS :

- 1. THE AGRICULTURAL INCOME TAX AND COMMERCIAL TAX OFFICER
COMMERCIAL TAX OFFICER, MANANTHAVADY – 670645.**
- 2. THE DEPUTY COMMISSIONER (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES, KOZHIKODE – 673 006.**
- 3. THE DEPUTY TAHSILDAR (RR)
TALUK OFFICE, MANANTHAVADY – 670645.**

R1 TO R3 BY GOVT. PLEADER SMT. K.T. LILLY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 34602 of 2015 (A)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1:-** TRUE COPY OF THE ASSESSMENT ORDER PASSED BY 1ST
RESPONDENT FOR THE YEAR 2011-2012 DTD. 27/5/2015.
- EXT. P2:-** TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT DTD. 7/7/2015.
- EXT. P3:-** TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT DTD. 7/7/2015.
- EXT. P4:-** TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE
REVENUE RECOVERY ACT ISSUED BY 3RD RESPONDENT FOR THE
YEAR 2011-2012 DTD. 16/10/2015.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.34602 of 2015

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Dated this the 17th day of November, 2015

J U D G M E N T

Against Ext.P1 assessment orders under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P2 appeal and Ext.P3 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 through Ext.P4 demand notice for recovery of the amounts confirmed by Ext.P1 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 2nd respondent shall consider and pass orders on Ext.P3 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 the petitioner by Ext.P4 demand notice 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/17.11.15

