

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

WP(C).No. 34974 of 2015 (V)

PETITIONER :

**SRI.SOHAN,
M/S.A.P.K.METALS, KPV BUILDING, PALARIVATTOM,
KAKKANAD - 682 030.**

BY ADV. SRI.P.N.DAMODARAN NAMBOODIRI

RESPONDENT(S):

- 1. THE INTELLIGENCE OFFICER (IB),
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM AT EDAPPALLY - 682 024.**
- 2. THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES DEPARTMENT,
COMMERCIAL TAX COMPLEX,
THEVARA, ERNAKULAM -682 013.**
- 3. THE INSPECTING ASST. COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM,
KAKKANAD - 682 030.**

BY GOVERNMENT PLEADER SMT. LILLY.K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 34974 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE PENALTY ORDER NO.IBE-V/OR-3/2015-16(14-15) DATED 28/4/2015 PASSED BY THE 1ST RESPONDENT FOR THE YEAR 2014-15.**
- P2: TRUE COPY OF THE FIRST REVISION DATED 7/8/2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2014-15.**
- P3: TRUE COPY OF THE STAY PETITION DATED 7/8/2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR THE YEAR 2014-15.**
- P4: TRUE COPY OF THE REVENUE RECOVERY NOTICE NO.A5-2003/15, DATED 28/7/2015 ISSUED BY THE 3RD RESPONDENT FOR THE YEAR 2014-15.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.34974 of 2015

.....
Dated this the 19th day of November, 2015

J U D G M E N T

Against Ext.P1 penalty order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P2 revision 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 revenue recovery notice for recovery of the amounts confirmed by Ext.P1 penalty 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 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 revenue recovery 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 adverting 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