

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937**

**WP(C).No. 35095 of 2015 (J)**  
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**PETITIONER:**  
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**GEORGE M.PHILIP, CONTRACTOR,  
MUTTUMTHARAPADICKAL HOUSE,  
PARAMPUZHA.P.O, KOTTAYAM-4.**

**BY ADVS.SRI.BABU JOSEPH KURUVATHAZHA  
SRI.P.T.ABHILASH**

**RESPONDENT(S):**  
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- 1. DEPUTY COMMISSIONER(APPEAL),  
UNDER THE KERALA VALUE ADDED TAX ACT,  
OFFICE OF THE DEPUTY COMMISSIONER,  
COLLECTORATE, KOTTAYAM-686002.**
- 2. COMMERCIAL TAX OFFICER,  
SECOND CIRCLE, KOTTAYAM-686001.**

**BY GOVERNMENT PLEADER SRI.R.RANJITH**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**mbr/**

**WP(C).No. 35095 of 2015 (J)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS:**  
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**P1 : TRUE COPY OF THE ORDER NO.32050620371/14-15 DATED 25.7.2015 ALONG  
WITH THE DEMAND NOTICE ISSUED BY THE 2ND RESPONDENT.**

**P2 : TRUE COPY OF THE APPEAL DATED 3.9.2015 PREFERRED BY THE  
PETITIONER BEFORE THE 1ST RESPONDENT.**

**P3 : TRUE COPY OF THE INTERLOCUTORY APPLICATION FILED FOR STAYING THE  
OPERATION OF EXT.P1.**

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

**//TRUE COPY//**

**P.S. TO JUDGE**

**mbr/**

**A.K.JAYASANKARAN NAMBIAR, J.**

.....  
W.P.(C).No.35095 of 2015

.....  
Dated this the 20<sup>rd</sup> day of November, 2015

**J U D G M E N T**

Against Ext.P1 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P2 appeal and Ext.P3 stay petition before the 1<sup>st</sup> 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. Heard the learned counsel for the petitioner and 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 1<sup>st</sup> 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. 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 1<sup>st</sup> respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 1<sup>st</sup> 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**

mns/20.11.15

