

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

WP(C).No. 35343 of 2014 (P)

PETITIONER:

PEMARAM BORANA, AGED 67 YEARS,
PROPRIETOR: M/S.SWASTIC PHARMACEUTICALS
(TIN NO.32071772092), BORANA BHAVAN,
41/552 (4) AL JACOB ROAD, ERNAKULAM-682 035.

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENTS:

1. STATE OF KERALA REP. BY SECRETARY,
DEPARTMENT OF REVENUE,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

2. THE COMMERCIAL TAX OFFICER
KVAT CIRCLE III, ERNAKULAM 682 030.

3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM,
KOCHI - 682 030.

ADDL.4. THE ASSISTANT COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM,
COCHIN - 682 015.

IS IMPEADED AS ADDITIONAL R4 AS PER ORDER IN I.A. NO. 17311/2015 DATED
03.12.2015.

BY GOVERNMENT PLEADER SRI. RANJITH R.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1	:	TRUE COPY OF THE NOTICE DATED 22.4.14 ISSUED UNDER SEC.22 (3) OF THE KVATACT FOR THE YEAR 2011 - 12.
EXT.P2	:	TRUE COPY OF THE NOTICE DATED 22.4.14 ISSUED UNDER SEC.22 (3) OF THE KVATACT FOR THE YEAR 2012 - 13.
EXT.P3	:	TRUE COPY OF THE NOTICE DATED 22.4.14 ISSUED UNDER SEC.22 (3) OF THE KVATACT FOR THE YEAR 2013 - 14.
EXT.P4	:	TRUE COPY OF THE REPRESENTATION DATED NIL SUBMITTED BY THE PETITIONER
EXT.P5	:	TRUE COPY OF THE ACKNOWLEDGEMENT CARD RECEIVED BACK FROM THE RESPONDENTS
EXT.P6	:	TRUE COPY OF THE ORDER DATED 9.6.14 ISSUED BY THE 2ND RESPONDENT
EXT.P7	:	TRUE COPY OF THE NOTICE OF DEMAND DATED 12.9.14 ISSUED FOR THE YEAR 2011 - 12.
EXT.P8	:	TRUE COPY OF THE REPRESENTATION DATED 30.10.2014 SUBMITTED BY THE PETITIONER
EXT.P9	:	TRUE COPY OF THE ORDER DATED 5.9.14 ISSUED BY THE 2ND RESPONDENT
EXT.P10	:	TRUE COPY OF THE NOTICE OF DEMAND DATED 12.9.14 ISSUED BY THE 2ND RESPONDENT
EXT.P11	:	TRUE COPY OF THE ORDER DATED 5.9.14 ISSUED BY THE 2ND RESPONDENT
EXT.P12	:	TRUE COPY OF THE NOTICE OF DEMAND DATED 12.9.14 ISSUED BY THE 2ND RESPONDENT
EXT.P13	:	TRUE COPY OF THE DEMAND NOTICE DATED 13.11.14 ISSUED BY THE 3RD RESPONDENT FOR THE YEAR 2011 - 12.
EXT.P14	:	TRUE COPY OF THE DEMAND NOTICE DATED 13.11.14 ISSUED BY THE 3RD RESPONDENT FOR THE YEAR 2012 - 13.
EXT.P15	:	TRUE COPY OF THE DEMAND NOTICE DATED 13.11.14 ISSUED BY THE 3RD RESPONDENT FOR THE YEAR 2013 - 14.
EXT.P16	:	TRUE COPY OF THE STATEMENT OF ACCOUNT FOR THE YEAR 2012 - 13

- EXT.P17 : TRUE COPY OF THE STATEMENT OF ACCOUNT FOR THE YEAR 2013 - 14.
- EXT.P18 : TRUE COPY OF APPEAL DATED 13.10.2015 FILED AGAINST EXT.P6 ORDER FOR THE YEAR 2011-12, SUBMITTED BEFORE THE ASSISTANT COMMISSIONER (APPEALS), ERNAKULAM.
- EXT.P18(a) : TRUE COPY OF PETITION DATED 13.10.2015 FOR CONDONING DELAY IN FILING APPEAL, SUBMITTED BEFORE ASSISTANT COMMISSIONER (APPEALS), ERNAKULAM, ALONG WITH EXT.P18 APPEAL.
- EXT.P18(b) : TRUE COPY OF STAY PETITION DATED 13.10.2015, AGAINST EXT.P6 ORDER, SUBMITTED BEFORE ASSISTANTCOMMISSIONER (APPEALS), ERNAKULAM, ALONG WITH EXT.P18.
- EXT.P19 : TRUE COPY OF APPEAL DATED 13.10.2015 FILED AGAINST EXT.P9 ORDER FOR THE YEAR 2012-13, SUBMITTED BEFORE THE ASSISTANT COMMISSIONER (APPEALS), ERNAKULAM.
- EXT.P19(a) : TRUE COPY OF PETITION DATED 13.10.2015 FOR CONDONING DELAY IN FILING APPEAL, SUBMITTED BEFORE ASSISTANT COMMISSIONER (APPEALS), ERNAKULAM, ALONG WITH EXT.P19.
- EXT.P19(b) : TRUE COPY OF STAY PETITION DATED 13.10.2015 AGAINST EXT.P9 ORDER, SUBMITTED BEFORE ASSISTANT COMMISSIONER (APPEALS), ERNAKULAM, ALONG WITH EXT.P19.
- EXT.P20 : TRUE COPY OF APPEAL DATED 13.10.2015 FILED AGAINST EXT.P11 ORDER FOR THE YEAR 2013-14, SUBMITTED BEFORE THE ASSISTANT COMMISSIONER (APPEALS), ERNAKULAM.
- EXT.P20(a) : TRUE COPY OF PETITION DATED 13.10.2015 FOR CONDONING DELAY IN FILING APPEAL, SUBMITTED BEFORE ASSISTANT COMMISSIONER (APPEALS), ERNAKULAM, ALONG WITH EXT.P20.
- EXT.P20(b) : TRUE COPY OF STAY PETITION DATED 13.10.2015 AGAINST EXT.P11, SUBMITTED BEFORE ASSISTANT COMMISSIONER (APPEALS), ERNAKULAM, ALONG WITH EXT.P20.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.35343 of 2014

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Dated this the 3rd day of December, 2015

J U D G M E N T

Against Exts.P6, P9 and P11 assessment orders under the Kerala Value Added Tax Act for the assessment years 2011-2012 to 2013-2014, the petitioner has preferred Exts.P18, P19 and P20 appeals and Exts.P18(a), P19(a) and P20(a) delay condonation petitions and Exts.P18(b), P19(b) and P20(b) stay petitions before the additional 4th respondent. The limited prayer of the petitioner is for a direction to the additional 4th respondent to consider and pass orders in the appeals preferred and to keep in abeyance the recovery steps till such time as orders are passed in the appeals.

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 additional 4th respondent shall consider and pass orders on Exts.P18(a), P19(a) and P20(a) delay condonation petitions and Exts.P18(b), P19(b) and P20(b) stay petitions 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 Exts.P6, P9 and P11 assessment orders shall be kept in abeyance till such time as orders are passed by the additional 4th respondent as directed above and communicated to the petitioner.

**A.K.JAYASANKARAN NAMBIAR
JUDGE**

