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

**PRESENT:**

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

**MONDAY, THE 23RD DAY OF NOVEMBER 2015/2ND AGRAHAYANA, 1937**

**WP(C).No. 35283 of 2015 (I)**
**--------------------------------------**

**PETITIONER(S):**
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**MOIDUTTY K., PROPRIETOR,**
**KM TRADERS, KODILAN HOUSE,**
**THARUVANA P.O., MANANTHAVADY,**
**WAYANAD.**

**BY ADV. SRI.V.SHYAM**

**RESPONDENT(S):**
**-------------------------**

1. **THE COMMERCIAL TAX OFFICER,**
   **MANANTHAVADY, WAYANAD - 670 645.**

2. **DEPUTY COMMISSIONER (APPEALS),**
   **COMMERCIAL TAXES, KOZHIKODE - 673 001.**

3. **THE DEPUTY TAHASILDAR (REVENUE RECOVERY),**
   **TALUK OFFICE, MANATHAVADY - 670 645.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**msv/**

**WP(C).No. 35283 of 2015 (I)**
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**APPENDIX**

**PETITIONER(S)' EXHIBITS:**
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**EXT.P1:THE TRUE COPY OF THE ORDER DTD.9.6.2015 OF THE 1ST RESPONDENT.**

**EXT.P2: THE TRUE COPY OF THE MEMORANDUM OF APPEAL DTD.27.7.2015 SUBMITTED BY THE PETITIONER.**

**EXT.P3: THE TRUE COPY OF THE STAY PETITION DTD.27.7.2015 SUBMITTED BY THE PETITIONER.**

**EXT.P4: ATRUE COPY OF THE DEMAND NOTICE NO.D2 15166/ST/2015 DTD.29.10.2015 OF THE 3RD RESPONDENT.**

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

**NIL**

**//TRUE COPY//**

**P.S.TO JUDGE**

Ms**v/**

**A.K.JAYASANKARAN NAMBIAR, J.**
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**W.P.(C).NO.35283 OF 2015 (I)**
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**Dated this the 23rd day of November, 2015**

**<u>J U D G M E N T</u>**

Against Ext.P1 assessment order under the KVAT Act, the petitioner had preferred Ext.P2 appeal together with 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 taken by the respondents through Ext.P4 demand notice as confirmed by Ext.P1 assessment order.

2. I have heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing for the respondents.

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:

> 1. 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.

2. Recovery steps for recovery of amounts confirmed against petitioner pursuant to Ext.P1 assessment order shall be kept in abeyance till orders are passed by the $2^{nd}$ respondent as directed above and communicated to the petitioner.

**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

prp/23/11/15