

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. 35454 of 2015 (F)

PETITIONER :

**M/S. MODERN SANITARY, AGED 46 YEARS,
CHETTUPUZHA BUILDING, KURUPPAM ROAD, THRISSUR
REPRESENTED BY ITS PROPRIETOR, SUBASTIAN MATHEW.**

**BY ADVS.SRI.K.J.ABRAHAM
SRI.NIKHIL JOHN**

RESPONDENTS :

- 1. THE ASST. COMMISSIONER (ASSMT),
O/O. THE ASSISTANT COMMISSIONER (ASSMT),
COMMERCIAL TAXES, SPECIAL CIRCLE, THRISSUR-680004**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM - 05**
- 3. THE INSPECTING ASST. COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
POTHOLE, THRISSUR - 680004.**
- 4. VAT APPELLATE TRIBUNAL, ADDITIONAL. BRANCH,
COMMERCIAL TAX COMPLEX, THEVARA, ERNAKULAM- 682015.**
- 5. STATE BANK OF TRAVANCORE,
ROUND SOUTH BRANCH, THRISSUR - 680001**

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

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

bp

WP(C).No. 35454 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE ASSESSMENT ORDER NO. 32080710565/ 10-11 DT 2/7/2013.**
- P2: COPY OF THE APPELLATE ORDER IN KVAT - 2532/13 DT 22/7/2015.**
- P3: COPY OF THE APPEAL MEMORANDUM IN FORM NO. 31 NO. TA. 215/2015
DT 29/9/2015.**
- P4: COPY OF THE AFFIDAVIT AND STAY PETITION DT 29/9/2015.**
- P5: COPY OF THE PROHIBITORY ORDER NO. A7-1865/2015 & RRC NO. 12/2013-14
DT 28/10/2015.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 35454 of 2015

Dated this the 23st day of November, 2015

JUDGMENT

The Petitioner is a registered dealer under the Kerala Value Added Tax Act, 2003, hereinafter referred to as the "KVAT Act". Against Ext.P2 first appellate order passed under the KVAT Act, the petitioner preferred Ext.P3 appeal and Ext.P4 stay petition before the 4th respondent Appellate Tribunal. It is the case of the petitioner that even before the consideration of the stay petition by the 4th respondent, recovery steps have been initiated against him through Ext.P5 prohibitory order issued by the 5th respondent, for recovery of the amount confirmed in the assessment orders.

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

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ petition with a direction to the 4th respondent Appellate Tribunal to consider and pass orders on Ext.P4 stay petition, preferred by the petitioner before him, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

The recovery steps for recovery of amounts confirmed against the petitioner by Ext.P2 appellate order, including further steps pursuant to Ext.P5 prohibitory order, shall be kept in abeyance till such time as the 4th respondent passes orders, as directed, in Ext.P3 stay petition.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE