

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

WP(C).No. 35468 of 2015 (G)

PETITIONER(S):

**HILITE PROJECTS PVT. LTD.,
3RD FLOOR, BUSINESS PARK,
HILITE CITY, THONDAYAD BYPASS,
G.A. COLLEGE P.O., KOZHIKODE, PIN-673 014,
REPRESENTED BY ITS MANAGING DIRECTOR
SRI.P. SULAIMAN.**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM),
SRI.K.S.HARIHARAN NAIR.**

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER (WC),
JAWAHAR NAGAR, KOZHIKODE-673 006.**
- 2. THE ASST. COMMISSIONER (APPEALS),
NIRMAL ARCADE, ERANHIPALAM,
KOZHIKODE-673 006.**
- 3. THE COMMERCIAL TAX OFFICER (RECOVERY),
OFFICE OF THE DY. COMMISSIONER,
COMMERCIAL TAXES, JAWAHAR NAGAR,
KOZHIKODE-673 006.**

BY GOVT. PLEADER SMT.LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE ASSESSMENT ORDER DATED 14/07/2014 ISSUED BY THE 1ST RESPONDENT FOR 2012-13.
- EXT.P2 COPY OF THE APPEAL MEMORANDUM AGAINST EXT.P1.
- EXT.P3 COPY OF THE PETITION FILED IN EXT.P2 APPEAL.
- EXT.P4 COPY OF THE ORDER DATED 05/09/2014 ISSUED BY THE 2ND RESPONDENT.
- EXT.P5 COPY OF THE LETTER DATED 04/10/2014 ADDRESSED TO THE 3RD RESPONDENT.
- EXT.P6 COPY OF THE SECURITY BOND DATED 04/10/2014.
- EXT.P7 COPY OF THE LETTER DATED 18/03/2015 ISSUED BY THE 1ST RESPONDENT.
- EXT.P8 COPY OF THE ORDER DATED 19/11/2011 OF THIS HON'BLE COURT IN RP NO.815/2011 AGAINST THE JUDGMENT IN W.A. NO.708/2011 DATED 07/06/2011.
- EXT.P9 COPY OF THE JUDGMENT DATED 16/02/2013 IN WP(C).NO.3900/2012.
- EXT.P10 COPY OF THE LETTER DATED 26/03/2015 ADDRESSED TO THE 1ST RESPONDENT.
- EXT.P11 COPY OF THE BALANCE SHEET AS ON 31/03/2015.
- EXT.P12 COPY OF THE NOTICE DATED 11/09/2014 ISSUED BY THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.35468 of 2015

Dated this the 24th day of November 2015

JUDGMENT

The petitioner is a works contractor engaged in the construction of flats, as also a registered dealer under the provisions of the KVAT Act on the rolls of the 1st respondent. Aggrieved by Ext.P1 assessment, the petitioner had preferred Ext.P2 appeal together with Ext.P3 stay petition, before the 2nd respondent. The 2nd respondent disposed the stay petition by Ext.P4 order directing the petitioner to pay 30% of the amount disputed in the appeal, and furnishing security for the balance amount within three weeks, as a condition for the stay of recovery of the balance amount pending disposal of the appeal. It is stated that the petitioner had remitted the amount of 30% as directed in Ext.P4. However, when he submitted Ext.P6 security bond in Form 6 for the balance amount, the 1st respondent refused to accept the same stating that this was inadequate security for compliance with the directions in Ext.P4 order. It is aggrieved by the said stand of the respondents, that the petitioner has approached this Court with the present writ petition.

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

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, and taking note of the fact that the petitioner is a registered dealer against whom there is no complaint of past defaults, I am of the view that the interests of justice would be served by directing the 2nd respondent to pass final orders in Ext.P2 appeal without insisting on any further payments or furnishing of security from the petitioner, consequent to Ext.P4 order. The 2nd respondent shall pass final orders in Ext.P2 appeal after hearing the petitioner within a period of three months from the date of receipt of a copy of this judgment. Recovery steps, if any initiated against the petitioner for recovery of amounts confirmed against the petitioner by Ext.P1 assessment order, shall be kept in abeyance, till such time as orders are passed by the 2nd respondent as directed and communicated to the petitioner.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/