

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

WP(C).No. 35799 of 2015 (Y)

PETITIONER(S):

**U.K. LAKSHMI DEVI, PROPRIETRESS,
POPULAR DRUGS AND SURGICALS,
CALICUT ROAD, PERINTHALMANNA,
MALAPPURAM - 679 357.**

BY ADV. SRI.R.MURALIDHARAN (AROOR).

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
KVAT CIRCLE, DEPARTMENT OF COMMERCIAL TAXES,
MALAPPURAM AT PERINTHALMANNA,
MALAPPURAM DISTRICT - 679 322.**
- 2. KERALA VALUE ADDED TAX APPELLATE TRIBUNAL,
ADDITIONAL BENCH, NOORANI, PALAKKAD - 678 001.**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, MANJERI,
MALAPPURAM DISTRICT - 676 121.**

BY GOVT. PLEADER SRI.RANJITH. R.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1- TRUE COPY OF THE ASSESSMENT ORDER PASSED BY THE 1ST RESPONDENT FOR THE YEAR 2010-11 DATED 30/10/2013.
- P2- TRUE COPY OF THE APPELLATE ORDER PASSED BY THE APPELLATE AUTHORITY DATED 20/12/2014.
- P3- TRUE COPY OF THE ASSESSMENT ORDER PASSED BY THE 1ST RESPONDENT FOR THE YEAR 2008-09 DATED 04/07/2014.
- P4- TRUE COPY OF THE APPELLATE ORDER PASSED BY THE APPELLATE AUTHORITY FOR 2008-09 DATED 20/12/2014.
- P5- TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT AGAINST EXHIBITS-P1 AND P2 ORDERS, DATED 12/11/2015.
- P6- TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT AGAINST EXHIBITS-P3 AND P4 ORDERS DATED 12/11/2015.
- P7- TRUE COPY OF THE APPLICATION FOR STAY FILED BEFORE THE 2ND RESPONDENT DATED 12/11/2015 ALONG WITH EXHIBIT-P5 APPEAL.
- P8- TRUE COPY OF THE APPLICATION FOR STAY FILED BEFORE THE 2ND RESPONDENT DATED 12/11/2015 ALONG WITH EXHIBIT-P6 APPEAL
- P9- TRUE COPY OF THE INTERLOCUTORY APPLICATION TO CONDONE DELAY FILED ALONG WITH EXHIBIT-P5 APPEAL DATED 12/11/2015.
- P10- TRUE COPY OF THE INTERLOCUTORY APPLICATION TO CONDONE DELAY FILED ALONG WITH EXHIBIT-P6 APPEAL DATED 12/11/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.35799 of 2015

Dated this the 26th day of November 2015

JUDGMENT

Against Exts. P2 and P4 first appellate orders under the Kerala Value Added Tax Act, the petitioner has preferred Exts.P5 and P6 second appeals, Exts.P7 and P8 stay petitions and Exts.P9 and P10 delay condonation petitions before the 2nd 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 Exts. P2 and P4 first appellate orders.

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 2nd respondent shall consider and pass orders on Exts.P7 and Ext.P8 stay petitions and Exts.P9 and P10 delay condonation 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.P2 and P4 first appellate orders, shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

iii) it is made clear that during the period of operation of stay granted in this judgment, the respondent shall permit the petitioner access to the KVATIS website, so as to enable the petitioner to transact the business through the said site.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/