

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. 35834 of 2015 (D)

PETITIONER :

**ANKUR TRADERS,
PALOTTUPALLY, MATTANNUR,
KANNUR DISTRICT-670 703,
REPRESENTED BY ITS MANAGING PARTNER GOPINATHA KAMMATH,
S/O.NARAYANA KAMMATH, AGED 69 YEARS, "VIDYAREKHA",
OLD BUS STAND, KANNUR-1.**

**BY ADVS.SRI.K.C.SANTHOSHKUMAR
SMT.K.K.CHANDRALEKHA
SMT.K.S.SUDHA
SMT.C.LEENA**

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER,
KUTHUPARAMBA, KANNUR DISTRICT, PIN-670 643**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES DEPARTMENT,
KOZHIKODE, PIN-673 001**
- 3. INSPECTING ASSISTANT COMMISSIONER
(REVENUE RECOVERY), COMMERCIAL TAXES DEPARTMENT,
KANNUR-670 001**
- 4. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001**

BY GOVERNMENT PLEADER SMT. K.T.LULLY

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

WP(C).NO.35834/2015

APPENDIX

PETITIONER'S EXHIBITS:

- | | |
|-----------|---|
| P1 | COPY OF THE ASSESSMENT ORDER DATED 16/01/2014 ISSUED BY THE FIRST RESPONDENT |
| P2 | COPY OF THE DEMAND NOTICE DATED 16/01/2014 ISSUED BY THE FIRST RESPONDENT |
| P3 | COPY OF APPEAL MEMORANDUM DATED 22/12/2014 AND BEARING VATA NO.2015/2014. |

RESPONDENT'S EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 35834 of 2015

Dated this the 26th day of November, 2015

JUDGMENT

Aggrieved by Ext.P1 order of assessment under the Kerala Value Added Tax Act, hereinafter referred to as the KVAT Act, the petitioner has preferred Ext.P3 appeal before the 2nd respondent. The limited prayer of the petitioner in the writ petition is for a direction to the 2nd respondent to consider and pass orders on Ext.P3 appeal, expeditiously, after hearing the petitioner and to permit the petitioner to operate the account of the petitioner maintaining with the Syndicate Bank, Main Branch, Kannur (Account No.4200101000/1517), in the meanwhile.

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 as also the submissions made across the bar, I find that the interest of justice would be served by directing the 2nd respondent to consider and pass orders on Ext.P3 appeal preferred by the petitioner before him, within a period of three months from the date of receipt of a copy of this judgment, after hearing the

petitioner. It is made clear that recovery steps 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, on condition that the petitioner pays 30% of the amounts demanded by Ext.P1 assessment order, within a period of one month from today. It is further made clear that, during the period of operation of the stay granted by this Court in this judgment, the petitioner shall also be permitted to operate his account bearing No.4200101000/1517 with the Syndicate Bank, Main Branch, Kannur.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE