

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

WP(C).No. 35910 of 2015 (K)

PETITIONER:

**V.JAYANANDA MALLAN, PROPRIETOR,
KUNDALAT BROTHERS, S.L.PURAM - 688 523,
CHERTHALA, ALAPPUZHA DISTRICT.**

**BY ADVS.SRI.V.DEVANANDA NARASIMHAM
SRI.P.H.RIYAS**

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER -I,
COMMERCIAL TAXES, CHERTHALA - 688 524.**
- 2. THE DEPUTY COMMISSIONER(APPEALS),
COMMERCIAL TAXES, ASRAMAM,
KOLLAM - 691 002.**
- 3. THE KVAT, AIT & SALES TAX APPELLATE TRIBUNAL,
ADDITIONAL BENCH, TAX COMPLEX,
KOTTAYAM - 686 001.**
- 4. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, ALAPPUZHA - 688 011.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1: TRUE COPY OF FORM 18B CERTIFICATE OF AUDIT DATED 3.12.13
ISSUED BY 1ST RESPONDENT TO THE PETITIONER.
- EXT. P2 : TRUE COPY OF THE ASSESSMENT ORDER DATED 3.12.13 FOR THE
YEAR 2012-13 PASSED U/S 24 OF THE KVAT ACT BY 1ST RESPONDENT
AND ISSUED TO THE PETITIONER.
- EXT. P3 : TRUE COPY OF THE ASSESSMENT ORDER DATED 5.12.13 FOR THE
YEAR 2013-14 PASSED U/S 24 OF THE KVAT ACT BY 1ST RESPONDENT
AND ISSUED TO THE PETITIONER.
- EXT. P4 : TRUE COPY OF THE COMMON APPELLATE ORDER DATED 30.7.15
ISSUED BY THE 2ND RESPONDENT TO PETITIONER.
- EXT. P5 : TRUE COPY OF THE APPEAL MEMORANDUM IN FORM 31
DATED 6.11.15 FOR 2012-13 FILED BY PETITIONER BEFORE
3RD RESPONDENT.
- EXT. P6 : TRUE COPY OF THE APPEAL MEMORANDUM IN FORM 31
DATED 6.11.15 FOR 2013-14 FILED BY PETITIONER BEFORE
3RD RESPONDENT.
- EXT. P7 : TRUE COPY OF THE IA. FOR STAY ALONG WITH AN AFFIDAVIT
DATED 6.11.15 FOR 2012-13 FILED BEFORE 3RD RESPONDENT.
- EXT. P8 : TRUE COPY OF THE IA. FOR STAY ALONG WITH AN AFFIDAVIT
DATED 6.11.15 FOR 2013-14 FILED BEFORE 3RD RESPONDENT.
- EXT. P9 : TRUE COPY OF RR NOTICE DATED 9.11.15 FOR 2012-13 ISSUED BY
4TH RESPONDENT TO PETITIONER.
- EXT. P10 : TRUE COPY OF RR NOTICE DATED 9.11.15 FOR 2013-14 ISSUED BY
4TH RESPONDENT TO PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 35910 of 2015

Dated this the 27th 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.P4 first appellate order passed under the KVAT Act, the petitioner preferred Exts.P5 and P6 second appeals and Exts.P7 and P8 stay petitions before the 3rd respondent. It is the case of the petitioner that even before the consideration of the stay petitions by the 3rd respondent, recovery steps have been initiated through Exts.P9 and P10 notices, for recovery of the amount confirmed against the petitioner.

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

3. 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 3rd respondent to consider and pass orders on Exts.P7 and P8 stay petitions preferred by the petitioner before him, within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner. Coercive

steps for recovery pursuant to Exts.P9 and P10 notices, shall be kept in abeyance, till such time as orders are passed by the 3rd respondent as directed and communicated the same to the petitioner.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE