

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

WP(C).No. 36672 of 2015 (H)

PETITIONER(S):

**M/S.IMMAGE COMMUNICATIONS,
28/813, K P VALLON ROAD, KADAVANTHARA,
COCHIN-682020, ERNAKULAM DISTRICT,
REPRESENTED BY ITS MANAGER SRI.SUKESH C.S.**

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER (ENQUIRY),
COMMERCIAL TAXES, O/O.THE DEPUTY COMMISSIONER (INT.),
EDAPPALLY, COCHIN-682024.**
- 2. INTELLIGENCE OFFICER (RAPID ACTION),
COMMERCIAL TAXES, SALES TAX COMPLEX,
ERNAKULAM, COCHIN-682015.**
- 3. COMMERCIAL TAX OFFICER, COMMERCIAL TAXES,
2ND CIRCLE, THRIPIYUNITHURA-682301.**
- 4. ASSISTANT COMMISSIONER (APPEALS),
COMMERCIAL TAXES, SALES TAX COMPLEX,
THEVARA, COCHIN-682015.**
- 5. BRANCH MANAGER, FEDERAL BANK LTD.,
GINAGAR BRANCH, KADAVANTHARA, COCHIN-682020.**

R1-4 BY GOVERNMENT PLEADER SMT.LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF CERTIFICATE OF REGISTRATION ISSUED TO PETITIONER BY THE R3 UNDER THE KERALA VALUE ADDED TAX ACT.**
- P2: COPY OF NOTICE NO.OR 804/13-14 DATED 17/3/14 U/S.47(2) OF THE KVAT ACT ISSUED TO PETITIONER BY INTELLIGENCE INSPECTOR, SQUAD NO.I, COMMERCIAL TAXES, ALLEPPEY, RELEASED THE GOODS AFTER COLLECTING CASH SECURITY**
- P2(A): COPY OF NOTICE NO.OR 585/13-14 DATED 20/3/14 U/S.47(2) OF THE KVAT ACT ISSUED TO PETITIONER BY INTELLIGENCE INSPECTOR, SQUAD NO.II, COMMERCIAL TAXES, ALLEPPEY**
- P3: COPY OF BANK GUARANTEE NO.IBG 51469 DATED 22/3/14 ISSUED BY R5 PURSUANT TO EXTP2(A) NOTICE, FURNISHED AS SECURITY DEPOSIT**
- P4: COPY OF ORDER DATED 25/7/14 ISSUED U/S.47(6) BY 2ND RESPONDENT IN CONVERTING SECURITY DEPOSIT REMITTED IN CASH RECEIPT INTO PENALTY**
- P4(A): COPY OF ORDER DATED 30/9/15 ISSUED U/S.47(6) BY 1ST RESPONDENT IN CONVERTING SECURITY DEPOSIT FURNISHED AS PER EXT P3 BANK GUARANTEE, DEMANDING ENCASHMENT FROM R5**
- P5: COPY OF APPEAL IN FORM NO.29 DATED 1/12/15 SUBMITTED BY PETITIONER BEFORE R4 AGAINST EXT.P4 ORDER.**
- P5(A): COPY OF APPEAL IN FORM NO.29 DATED 1/12/15 SUBMITTED BY PETITIONER BEFORE R4 AGAINST EXT.P4(A)**
- P6: COPY OF STAY PETITON DATED 1/12/15 SUBMITTED BY PETITIONER BEFORE R4 ALONG WITH EXT.P5(A) APPEAL.**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.36672 OF 2015 (H)

Dated this the 3rd day of December, 2015

J U D G M E N T

Against Exts.P4 and P4(a) penalty orders under the KVAT Act, the petitioner has preferred Exts.P5 and P5(a) appeals before the 4th respondent. It is submitted that in one of the appeals, no stay petition was preferred because the entire amount confirmed against the petitioner has been secured by a cash security. As regards the other appeal, the petitioner has furnished Ext.P3 bank guarantee and hence there is no requirement of further security during the pendency of the appeal. Taking note of the said submission of counsel for the petitioner, I dispose the writ petition with a direction to the 4th respondent, before whom Exts.P5 and P5(a) appeals are pending, to consider and pass orders on the same, after hearing the petitioner, within a period two months from the date of receipt of a copy of this judgment. I make it clear that, till such time as orders are passed by the 4th respondent, as directed, and communicated to the petitioner, coercive steps for recovery of amounts confirmed against the petitioner by Ext.P4 and P4(a) penalty orders, including any steps for

invoking Ext.P3 bank guarantee, shall be kept in abeyance. The petitioner shall produce a copy of the writ petition along with a copy of this judgment before the 4th and 5th respondents, for further action.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/3/12/15