

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No. 36795 of 2015 (Y)

PETITIONER(S) :

**K.MOHAN,
MG.PARTNER, M/S.PARK CENTRAL, ST.FRANCIS CHURCH ROAD,
KALOOR- 682 017.**

**BY ADVS.SRI.S.ANANTHAKRISHNAN
SRI.N.K.SUBRAMANIAN**

RESPONDENT(S) :

- 1. COMMERCIAL TAX OFFICER,
2ND CIRCLE, KALAMASSERY @ PALARIVATTOM- 682 025.**
- 2. THE ASST COMMISSIONER(APPEALS),
COMMERCIAL TAXES, ERNAKULAM.**
- 3. THE TAHSILDAR(RR),
KANAYANNUR TALUK, ERNAKULAM, KOCHI- 682 011.**
- 4. THE DY. COMMISSIONER (APPEALS)- II,
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM.**

BY GOVERNMENT PLEADER SRI.R.RENJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1: TRUE COPY OF THE JUDGMENT IN W.A.NO.509/2013.**
- P2: TRUE COPY OF THE PAY ORDER DATED 27/03/2013.**
- P3: TRUE COPY OF THE ORDER DATED 11/09/2014 OF 4TH RESPONDENT.**
- P4: TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2012-2013.**
- P5: TRUE COPY OF THE MEMORANDUM OF APPEAL FOR THE YEAR 2012-13.**
- P6: TRUE COPY OF THE APPLICATION FOR STAY.**
- P7: TRUE COPY OF THE APPLICATION FOR OUT OF TURN HEARING.**
- P8: TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 28/10/2015.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 36795 of 2015

Dated this the 4th day of December, 2015

JUDGMENT

The petitioner is a registered dealer under the Kerala Value Added Tax Act, hereinafter referred to as the KVAT Act. Against Ext.P4 assessment order passed under the KVAT Act, the petitioner preferred Ext.P5 appeal and Ext.P6 stay petition before the 2nd respondent. It is the case of the petitioner that even before the consideration of the stay petition by the 2nd respondent, recovery steps have been initiated by issuing Ext.P8 revenue recovery notice for recovery of the amounts 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. It is pointed out by the learned counsel for the petitioner that against an assessment order for the earlier year, the petitioner has approached the appellate authority and pursuant to the orders passed by the appellate authority, the petitioner became entitled to a refund of Rs.3,00,000/-, which is still with the 1st respondent. Taking note of the said contention of counsel for the petitioner, I dispose the writ petition with a direction to the 2nd

respondent to consider and pass orders on Ext.P5 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. I make it clear that, recovery steps pursuant to Ext.P8 notice shall be kept in abeyance till such time as orders are passed by the 2nd respondent as directed and communicated the same to the petitioner. The petitioner shall produce a copy of the writ petition together with a copy of this judgment before the 2nd respondent for further action.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE