

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

WP(C).No. 37039 of 2015 (D)

PETITIONER(S):

**M/S.MADHAVARAJA CLUB,
ENGLISH CHURCH ROAD, PALAKKAD,
REPRESENTED BY ITS SECRETARY, GIRI NAIR.**

**BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON**

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER (LT),
DEPARTMENT OF COMMERCIAL TAXES, PALAKKAD-678 001.**
- 2. DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES, PALAKKAD-678 001.**
- 3. THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL,
NOORANI, PALAKKAD-678 004.**
- 4. INSPECTING ASST. COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES, PALAKKAD-678 001.**

BY GOVERNMENT PLEADER SRI.R.RENJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 37039 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1 : COPY OF PENALTY ORDER ISSUED BY THE 1ST RESPONDENT FOR THE
YEAR 2008-09 DT 4-3-2013.**

P2 : COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DT 7-10-2015.

**P3 : COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 3RD
RESPONDENT DT 16-11-2015.**

**P4 ; COPY OF STAY PETITION FILED BY THE PETITIONER BEFORE THE 3RD
RESPONDENT DT 16-11-2015.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.37039 of 2015

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Dated this the 8th day of December, 2015

J U D G M E N T

Against Ext.P2 1st appellate order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P3 appeal and Ext.P4 stay petition before the 3rd 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 Ext.P2 1st appellate order.

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 3rd respondent shall consider and pass orders on Ext.P4 stay petition within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps for recovery of amounts confirmed against petitioner by Ext.P2 1st appellate order shall be kept in abeyance

till such time as orders are passed by the 3rd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 3rd respondent shall be a reasoned one advertent to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal.

A.K.JAYASANKARAN NAMBIAR
JUDGE

