

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. 37136 of 2015 (N)

PETITIONER(S):

**M.K.SALIM, PROPRIETOR,
RUBY GRANITES, MUNDYATHUTHEKKEVEEDU,
WEST VENGOLA P.O., PERUMBAVOOR,
PIN - 683 556.**

**BY ADVS.SRI.A.A.ZIYAD RAHMAN
SRI.LAL K.JOSEPH
SRI.V.S.SHIRAZ BAVA
SRI.JOSEPH KURIAN VALLAMATTAM**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS COMMISSIONER TO
DEPARTMENT OF COMMERCIAL TAXES,
SECRETARIAT, THIRUVANNATHAPURAM - 695 001.**
- 2. THE COMMERCIAL TAXES OFFICER,
COMMERCIAL TAXES DEPARTMENT,
2ND CIRCLE, PERUMBAVOOR - 683 556.**
- 3. THE INTELLIGENCE OFFICER, SQUAD NO.5,
COMMERCIAL TAX DEPARTMENT,
MATTANCHERY AT PERUMBAVOOR - 683 556.**
- 4. THE INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
MUVATTUPUZHA - 683 551.**

BY GOVERNMENT PLEADER SMT.LILLY K.T.

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

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1: TRUE COPY OF THE AGREEMENT DTD.12.12.2013,
EXT.P2: TRUE COPY OF THE INVOICE DTD.18.1.2014.
EXT.P3: TRUE COPY OF THE RECEIPT DTD.18.1.2014.
EXT.P4: TRUE COPY OF THE BILL DATED 25.1.2014 RAISED BY THE SAID
ENGINEERING WORKSHOP.
EXT.P5: TRUE COPY OF THE REPORT DTD.6.2.2014.
EXT.P6: TRUE COPY OF THE ORDER DTD.11.11.2014 ISSUED BY THE
3RD RESPONDENT.
EXT.P7: TRUE COPY OF THE APPLICATION DTD.29.1.2015.
EXT.P8: TRUE COPY OF THE COMMUNICATION DTD.28.5.2015.
EXT.P9: TRUE COPY OF THE NOTICE DTD.30.6.2015.
EXT.P10: TRUE COPY OF THE OBJECTION DTD.18.8.2015.
EXT.P11: TRUE COPY OF THE DETAILS HEARING NOTE 3.9.2015.
EXT.P12: TRUE COPY OF THE ORDER DTD.7.9.2015.
EXT.P13: TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
BEFORE THE KERALA STATE ELECTRICITY BOARD LTD., ON 25.9.2014.
EXT.P14: TRUE COPY OF THE AGREEMENT FOR SUPPLY OF HIGH TENSION ENERGY
EXECUTED BY THE PETITIONER WITH THE KERALA STATE ELECTRICITY
BOARD LTD., DTD.24.11.2014.
EXT.P15; TRUE COPY OF THE SAID DEMAND NOTICE DTD.26.11.2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No. 37136 of 2015

Dated this the 8th day of December 2015

JUDGMENT

The challenge in the writ petition is against Ext.P12 order of the 2nd respondent, completing the assessment in relation to the petitioner under the KVAT Act, for the assessment year 2013-14. Although various grounds are raised in the writ petition in its challenge against Ext.P12 order, I am of the view that the contentions raised by the petitioner are purely factual in nature and would not merit a consideration in these proceedings under Article 226 of the Constitution of India. Accordingly, I find that the petitioner has to be relegated to the alternate remedy of filing an appeal against Ext.P12 order, before the appellate authority under the KVAT Act. The writ petition in its challenge against Ext.P12 order therefore fails, and is accordingly dismissed.

Counsel for the petitioner would seek some time to pursue his appellate remedy under the KVAT Act. Taking note of the said submission of counsel as also the plea of financial hardship, I direct that the recovery steps for recovery of amounts confirmed against the petitioner by Ext.P12 assessment order shall be kept in

abeyance for a period of one month so as to enable the petitioner to pursue his appellate remedy against Ext.P12 before the appellate authority, under the KVAT Act.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/