

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

WP(C).No. 37963 of 2015 (U)

PETITIONER:

**M/S.BELLMARE, PRABATH COMPLEX,
FORT ROAD, KANNUR,
REPRESENTED BY ITS MANAGING PARTNER,
SHRI PREETH.P.K**

**BY SRI.T.M.SREEDHARAN (SENIOR ADVOCATE)
ADVS.SRI.V.P.NARAYANAN
SRI.V.V.VARGHESE
SMT.DIVYA RAVINDRAN**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
(WORKS CONTRACT) - I, KANNUR - 670 001.**
- 2. THE DEPUTY/ASSISTANT COMMISSIONER(APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
NIRMAL ARCADE, ERNAHIPALAM.P.O.,
KOZHIKODE - 673 006.**
- 3. THE INSPECTING ASSISTNT COMMISSIONER,
COMMERCIAL TAXES, KANNUR - 670 001.**

BY GOVERNMENT PLEADER SRI.R.RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : TRUE COPY OF RE-ASST. ORDER DATED 7.10.2014 ALONG WITH DEMAND NOTICE PASSED BY THE FIRST RESPONDENT.
- EXT. P2 : TRUE COPY OF MEMORANDUM OF APPEAL DATED 3.12.2014 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT. P2(A) : TRUE COPY OF STAY PETITION DATED 3.12.2014 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT. P2(B): TRUE COPY OF PETITION FOR EARLY HEARING DATED 3.12.2014 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT. P3 : TRUE COPY OF THE JUDGMENT DATED 25.9.2014 IN O.T.REV.NO.49/2014 OF THIS HON'BLE COURT.
- EXT. P4 : TRUE COPY OF THE HEARING NOTICE DATED 27.11.2015 ISSUED BY THE 2ND RESPONDENT.
- EXT. P5 : TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 21.10.2015 IN FORM NO.1 ISSUED BY THE 3RD RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 37963 of 2015

Dated this the 15th day of December, 2015

JUDGMENT

Against Ext.P1 assessment order passed under the Kerala Value Added Tax Act, hereinafter referred to as the KVAT Act, the petitioner preferred Ext.P2 appeal and Ext.P2(a) 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.P5 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. 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 2nd respondent to consider and pass orders on Ext.P2 appeal 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. Recovery steps pursuant to Ext.P5 recovery notice shall be kept in abeyance till

such time as the 2nd respondent passes orders on Ext.P2 appeal, which is stated to have already been heard by the 2nd respondent, and communicates the same to the petitioner.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE