

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C).No. 38211 of 2015 (B)

PETITIONER(S):

**K.S.SASEENDRAN,
MANAGING DIRECTOR,
M/S.MARSHAL QUARRIES AND GRANITES PVT.LTD.,
THALAYOLAPARAMBU, VAIKOM.**

BY ADV. SRI.C.K.SREEJITH

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER,
VAIKOM, KOTTAYAM-686141.**
- 2. DEPUTY COMMISSIONER,
COMMERCIAL TAXES DEPARTMENT, KOTTAYAM-686141.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, PALA, KOTTAYAM-686575.**
- 4. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, GOVT.SECRETARIAT,
THIRUVANANTHAPURAM-695001.**

BY GOVERNMENT PLEADER SRI.K.RENJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE REGISTRATION CERTIFICATE ISSUED BY THE R1 VIDE NO.32051031513 DTD.4/8/15**
- P2: COPY OF THE INVOICE NO.3650013551 DTD.30/5/14**
- P3: COPY OF THE INVOICE NO.3650013552 DTD.30/5/14**
- P4: COPY OF THE 'C' FORM NO.320510/SC/38/2014 DTD.1/7/14**
- P5: COPY OF THE PENALTY ORDER IN NO.32051031513/2014-15/30/9/15 FOR RS.867884/-**
- P6: COPY OF THE APPEAL MEMORANDUM IN FORM NO.29 DTD.9/12/15**
- P7: COPY OF THE URGENT PETITION IN FORM 30 DT.9/12/15**
- P8: COPY OF THE STAY PETITION IN FORM NO.30 DT.9/12/15.**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.38211 of 2015
.....
Dated this the 16th day of December, 2015

J U D G M E N T

Against Ext.P5 penalty order under the Kerala Value Added Tax Act, the petitioner has preferred Ext. P6 revision petition and Ext.P8 stay petition before the 2nd 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.P5 penalty 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 2nd respondent shall consider and pass orders on Ext.P8 stay petition within a period of one month from the date of receipt of a copy

of this judgment, after hearing the petitioner.

ii. Recovery steps for recovery of amounts confirmed against petitioner by Ext.P5 penalty order shall be kept in abeyance till such time as orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 2nd 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 revision.

A.K.JAYASANKARAN NAMBIAR
JUDGE