

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. 38215 of 2015 (B)

PETITIONER :

**TRUST COMMUNICATIONS
29/21 10, B.B., BUILDINGS
KOTTOOLI P.O., KOZHIKODE – 673 016
REPRESENTED BY ITS MANAGING PARTNER
P.K. RINEESH.**

**BY ADVS.SRI.V.DEVANANDA NARASIMHAM
SRI.P.H.RIYAS**

RESPONDENT(S) :

- 1. COMMERCIAL TAX OFFICER
COMMERCIAL TAXES
IIRD CIRCLE, KOZHIKODE – 673 001.**
- 2. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, ERANHIPALAM P.O.,
KOZHIKODE – 673 006.**
- 3. THE INSPECTING ASSISTANT COMMISSIONER
COMMERCIAL TAXES, KOZHIKODE – 673 006.**

R1 TO R3 BY GOVT. PLEADER SRI. R. RANJITH

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

Mn

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF ANNUAL RETURN E-FILED FOR THE YEAR 2013-14 BY THE PETITIONER BEFORE IST RESPONDENT.
- EXT.P2 COPY OF THE PRE-ASSESSMENT NOTICE DATED 21-7-15 FOR THE YEAR 13-14 ISSUED U/S. 25(1) OF THE KVAT ACT BY IST RESPONDENT TO THE PETITIONER.
- EXT.P3 COPY OF THE REPLY DATED 29-9-15 FILED FOR THE YEAR 13-14 BY THE PETITIONER BEFORE THE IST RESPONDENT.
- EXT.P4 COPY OF THE DIRECTION DATED 23-7-15 ISSUED BY THE COMMISSIONER OF THE COMMERCIAL TAXES, THIRUVANANTHAPURAM.
- EXT.P5 COPY OF ASSESSMENT ORDER DATED 6-10-15 ISSUED FOR THE YEAR 2013-14 BY IST RESPONDENT TO PETITIONER.
- EXT.P6 COPY OF FORM 29 APPEAL MEMORANDUMS DTD. 6-11-15 FOR THE YEAR 2013-14 FILED BY PETITIONER BEFORE 2ND RESPONDENT.
- EXT.P7 COPY OF INTERLOCUTORY APPLICATION FOR ABSOLUTE STAY DATED 6-11-15 FILED BEFORE 2ND RESPONDENT BY THE PETITIONER.
- EXT.P8 COPY OF RR NOTICE DATED 25-11-15 FOR THE YEAR 13-14 ISSUED BY THE 3RD RESPONDENT TO PETITIONER.
- EXT.P9 COPY OF THE INTERIM STAY ORDER IN WP(C) NO. 33625 OF 2015 DATED 4-11-15.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.38215 of 2015
.....
Dated this the 16th day of December, 2015

J U D G M E N T

Against Ext.P5 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext. P6 appeal and Ext.P7 stay petition before the 2nd respondent. Ext.P8 is the revenue recovery notice. It is submitted by counsel for the petitioner that since the issue involved in the appeal is one that is covered by a decision of the Supreme Court, there ought to be a direction to the 2nd respondent to consider and pass orders in the appeal itself without insisting on any pre-deposit of amount pending disposal of the appeal.

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.P6 appeal within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. I make it clear that, till such time as the 2nd respondent passes orders in the appeal as directed above and communicates the same to the petitioner, recovery steps for recovery of amounts confirmed against the petitioner by Ext.P5 assessment order shall be kept in abeyance.

A.K.JAYASANKARAN NAMBIAR
JUDGE