

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

WP(C).No. 38567 of 2015 (U)

PETITIONER(S):

**SARAFUDHEEN. T.P, PROPRIETOR,
GARUDA TIMBER TRADERS, KARIMPULLY,
MARATHUR P.O, MELE PATTAMBI,
PALAKKAD.**

**BY ADVS.SRI.N.MURALEEDHARAN NAIR,
SRI.V.K.SHAMUSUDHEEN.**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
PATTAMBI-679 306.**
- 2. THE ASSISTANT COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
PALAKKAD-678 001.**

BY GOVT. PLEADER SRI.R. RANJITH.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE ASSESSMENT ORDER PASSED BY 1ST RESPONDENT FOR THE YEAR 2012-13 UNDER CST ACT DATED 30/01/2015.
- EXT.P2 COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 16/07/2015.
- EXT.P3 COPY OF THE DELAY CONDONATION PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 16/07/2015.
- EXT.P4 COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 16/07/2015.
- EXT.P5 COPY OF THE DEMAND NOTICE IN FORM NO.IV ISSUED BY 1ST RESPONDENT DATED 30/01/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.38567 of 2015
.....
Dated this the 18th day of December, 2015

J U D G M E N T

Against Ext.P1 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P2 appeal, Ext.P3 delay condonation petition and Ext.P4 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 through Ext.P5 demand notice for recovery of the amounts confirmed by Ext.P1 assessment 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.P3 delay condonation petition

and 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 pursuant to Ext.P5 demand notice shall be kept in abeyance till 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 appeal.

A.K.JAYASANKARAN NAMBIAR
JUDGE