

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

WP(C).No. 39255 of 2015 (F)

PETITIONER(S):

**NEW PONNARA JEWELLERS & KIDS
(FORMERLY KIDS JEWELLERY),
CHERUVATHUR P.O., KASARAGOD DISTRICT,
REPRESENTED BY ITS MANAGING PARTNER
SRI.T.V. SHAHUL HAMEED.**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM),
SRI.K.S.HARIHARAN NAIR.**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
HOSDURG, KASARAGOD DISTRICT, PIN -671 121.**
- 2. THE DY. COMMISSIONER (APPEALS),
COMMERCIAL TAXES, NIRMAL ARCADE,
ERANHIPALAM, KOZHIKODE, PIN- 673 006.**
- 3. THE AUTHORISED OFFICER,
SPECIAL DEPUTY TAHSILDAR
(REVENUE RECOVERY), HOSDURG-671 315.**

BY GOVT. PLEADER SMT.R. RANJITH.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 39255 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT-P1: COPY OF ASSESSMENT ORDER DATED 30.04.2015 ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2012-2013.

EXHIBIT-P2: COPY OF APPEAL MEMORANDUM AGAINST EXT.P1.

EXHIBIT-P3: COPY OF PETITION FOR CONDONING DELAY IN EXT.P2 APPEAL.

EXHIBIT-P4: COPY OF STAY PETITION FILED IN EXT.P2 APPEAL.

EXHIBIT-P5: COPY OF RR NOTICE DATED 08.12.2015 ISSUED BY THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.39255 of 2015
.....
Dated this the 22nd 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 revenue recovery 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. Recovery steps pursuant to Ext.P5 revenue recovery notice 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 adverting 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

W.P.(C). No.39255 of 2015