

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. 39295 of 2015 (J)

PETITIONER:

ABDUL MAJEED K.K. AGED 50 YEARS
S/O.LATE KOYAKUTTY HAJI, PROPRIETOR,
M/S.KUMMAYAPURATH FURNITURE MART, ULLIYERI, KOYILANDY,
KOZHIKODE DIST.

BY ADVS.SRI.A.V.MURALIDHARAN
SRI.C.AJITH KUMAR

RESPONDENTS:

- 1.THE COMMERCIAL TAX OFFICER,
DEPARTMENT OF COMMERCIAL TAXES, KOYILANDY-673 305
- 2.THE DEPUTY COMMISSIONER (APPEALS) ,
DEPARTMENT OF COMMERCIAL TAXES,
KOZHIKODE - 673 570.
- 3.THE INTELLIGENCE OFFICER(IB) II, OFFICE OF THE DEPUTY
COMMISSIONER (INT), COMMERCIAL TAXES, KOZHIKODE - 673570
4. THE DEPUTY COMMISSIONER, DEPARTMENT OF COMMERCIAL TAXES,
KOZHIKODE - 673 570
5. TAHSILDAR, REVENUE RECOVERY, VADAKARA-673101

BY GOVERNMENT PLEADER STI.R.RENJITH

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

APPENDIX

PETITIONER'S EXHIBITS:

- EXT. P1 : COPY OF THE ASSESSMENT ORDER DATED 16.05.2011 PASSED BY THE 1ST RESPONDENT.
- EXT.P2 : COPY OF THE VAT APPEAL NO.1535/2015 DATED 17.09.2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P3 : COPY OF THE APPLICATION FOR STAY DATED 17.09.2015 FILED BY THE PETITIONER ALONG WITH EXT.P2 BEFORE THE 2ND RESPONDENT.
- EXT. P4 : COPY OF THE APPLICATION FOR EMERGENT HEARING OF EXT.P2 APPEAL DATED 17.09.2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P5 : COPY OF THE ASSESSMENT ORDER DATED 31.08.2013 PASSED BY THE 1ST RESPONDENT.
- EXT.P6 : COPY OF THE VAT APPEAL NO.1536/2015 DATED 17.09.2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P7 : COPY OF THE APPLICATION FOR STAY DATED 17.09.2015 FILED BY THE PETITIONER ALONG WITH EXT.P6 BEFORE THE 2ND RESPONDENT.
- EXT.P8 : COPY OF THE APPLICATION FOR EMERGENT HEARING OF EXT.P6 APPEAL DATED 17.09.2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P9 : COPY OF THE ASSESSMENT ORDER DATED 31.01.2014 PASSED BY THE 1ST RESPONDENT.
- EXT.P10 : COPY OF THE VAT APPEAL NO.1537/2015 DATED 17.09.2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P11 : COPY OF THE APPLICATION FOR STAY DATED 17.09.2015 FILED BY THE PETITIONER ALONG WITH EXT.P10 BEFORE THE 2ND RESPONDENT.
- EXT. P12 : COPY OF THE APPLICATION FOR EMERGENT HEARING OF EXT.P10 APPEAL DATED 17.09.2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P13 : COPY OF THE ORDER DATED 28.09.2015 PASSED BY THE 2ND RESPONDENT ON EXTS.P3, P7 AND P11 STAY PETITIONS.
- EXT.P14 : COPY OF THE ORDER DATED 03.12.2012 PASSED BY THE 3RD RESPONDENT.
- EXT.P15 : COPY OF THE REVISION DATED 17.09.2015 FILED BY PETITIONER BEFORE THE 4TH RESPONDENT.
- EXT.P16: COPY OF THE PETITION FOR STAY DATED 17.09.2015 FILED ALONG WITH EXT.P15 FILED BY PETITIONER BEFORE THE 4TH RESPONDENT.
- EXT. P17 : COPY OF THE CONDONATION OF DELAY DATED 17.09.2015 FILED

ALONG WITH EXT.P15.

EXT. P18 : COPY OF THE NOTICE OF SALE DATED 01.10.2015 ISSUED BY THE
5TH RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.A.TO JUDGE

sm

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.39295 of 2015

Dated this the 22nd day of December 2015

JUDGMENT

Against Exts. P1, P5 and P9 assessment orders under the Kerala Value Added Tax Act, the petitioner has preferred Exts.P2, P6 and P10 appeals and Exts.P3, P7 and P11 stay petitions before the 2nd respondent. The 2nd respondent considered the stay application and passed Ext.P13 order, directing the petitioner to pay 30% of the amount confirmed against him as a conditional grant of stay. It is submitted by counsel for the petitioner that the amount of 30% of the amount confirmed against the petitioner has already been paid by the petitioner. Similarly, against Ext.P14 penalty order under the KVAT Act, the petitioner has preferred Ext.P15 revision petition, Ext.P16 stay petition and Ext.P17 delay condonation petition, before the 4th respondent.

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, and taking note of the submission of counsel for the petitioner, I dispose the writ petition with the following directions:

i) The 2nd respondent shall consider and pass orders on Exts.P2, P6 and P10 appeals within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. Similarly, there will be a direction to the 4th respondent to consider and pass orders on Ext.P16 stay petition and Ext.P17 delay condonation 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 Exts.P1, P5 and P9 assessment orders and Ext.P14 penalty order, shall be kept in abeyance till orders are passed by the 2nd and 4th respondents as directed above and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/