

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

WP(C).NO. 39598 OF 2015 (Y)

PETITIONER(S):

**SRI.M.T.VARGHESE
PROPRIETOR, FATHIMA MOTORS
FATHIMA NAGAR, THRISSUR**

**BY ADVS.SRI.E.P.GOVINDAN
SMT.G.DEEPA**

RESPONDENT(S):

**1. THE ASSISTANT COMMISSIONER(ASSESSMENT)
SPECIAL CIRCLE, COMMERCIAL TAXES
COMMERCIAL TAX COMPLEX, POOTHOLE, THRISSUR, PIN-680001**

**2.THE KERALA VALUE ADDED TAX TRIBUNAL
COMMERCIAL TAX COMPLEX, THEVARA, ERNAKULAM, PIN-682015**

**3. THE INSPECTING ASSISTANT COMMISSIONER
COMMERCIAL TAXES
COMMERCIAL TAX COMPLEX, POOTHOLE, THRISSUR, PIN-680003**

**4. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY, TAXES
DEPARTMENT, GOVERNMENT SECRETARIAT, TRIVANDRUM- 695001**

BY GOVERNMENT PLEADER SMT.LILLY K.T

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE NOTICE DATED 15.12.2015 ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER

EXT.P2: TRUE COPY OF THE REVISED ASSESSMENT ORDER DATED 26.03.2014 PASSED BY THE FIRST RESPONDENT

EXT.P3: TRUE COPY OF THE APPELLATE ORDER DATED NIL IN KVATA NO. 1151/14 PASSED BY THE DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, ERNAKULAM

EXT.P4: TRUE COPY OF THE APPEAL MEMORANDUM DATED 18.12.2015 FILED BEFORE THE SECOND RESPONDENT

EXT.P5: TRUE COPY OF THE STAY PETITION ALONG WITH AFFIDAVIT FILED BEFORE THE SECOND RESPONDENT DATED 18.12.2015

EXT.P6: TRUE COPY OF THE EARLY HEARING PETITION DATED 18.12.2015 FILED BEFORE THE SECOND RESPONDENT ALONG WITH THE AFFIDAVIT.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.39598 of 2015
.....
Dated this the 23rd day of December, 2015

J U D G M E N T

Against Ext.P3 first appellate order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P4 appeal and Ext.P5 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.P3 first appellate 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.P5 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.P3 first appellate order shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE