

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. 39748 of 2015 (P)

PETITIONER :

**M/S.VICTORIA POLYFORM,
KAIPULLY P.OARIMPUR, THRISSUR, KERALA-680 620,
REPRESENTED BY ITS PROPRIETOR
MR. PHILLIP AIPPUNNY MULAKKAL.**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMT.G.MINI**

RESPONDENT(S):

- 1. THE DEPUTY COMMISSIONER (APPEALS),
ERNAKULAM-682 016**
- 2. ASSISTANT COMMISSIONER (ASSMT)-IV,
SPECIAL CIRCLE, COMMERCIAL TAXES,
THRISSUR-680 001**
- 3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, POOTHOLE, THRISSUR-680 001**

BY GOVERNMENT PLEADER SMT. LILLY.KT

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

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE ASSESSMENT ORDER DATED 03/09/2015**
- P2 COPY OF THE MEMORANDUM OF APPEAL FOR THE ASSESSMENT YEAR 2013-2014 DATED 5/12/2015.**
- P3 COPY OF THE APPLICATION OF STAY DATED 5/12/2015**
- P4 COPY OF THE INTERIM ORDER PASSED IN RELATION FOR THE ASSESSMENT YEAR 2006-2007 TO 2011-2012**
- P5 COPY OF THE COVERING LETTER EVIDENCING REMITTANCE OF THE AMOUNTS DATED 23/6/2011.**
- P5(A) COPY OF THE COVERING LETTER EVIDENCING REMITTANCE OF THE AMOUNTS DATED 16/2/2013.**
- P6 COPY OF THE COMMON APPELLATE ORDER FOR THE ASSESSMENT ORDER FOR 2006-2007, 2007-2008 AND 2008-2009 DATED 22/10/2011**
- P7 COPY OF THE APPELLATE ORDERS FOR THE ASSESSMENT YEARS 2009-2010 AND 2010-2011 DATED 21/11/2013.**
- P8 COPY OF THE ORDER OF THE VAT TRIBUNAL DATED 31/3/2015 FOR THE YEAR 2006-2007**
- P9 COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY THE 3RD RESPONDENT DATED 16/12/2015.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.39748 of 2015

Dated this the 23rd day of December 2015

JUDGMENT

Against Ext. P1 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P2 appeal and Ext.P3 stay petition before the 1st 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. P1 assessment order.

2. I have heard the learned counsel for the petitioner and also the learned Government Pleader for the respondents.

3. It is submitted by the learned counsel for the petitioner that in the previous years, pursuant to the decisions of the appellate authority in favour of the petitioner, the petitioner became entitled to refund of the amounts paid as a condition for the grant of stay by the appellate authority. It is stated that the said amounts have not been refunded to the petitioner till date. Taking note of the said submission of counsel for the petitioner, I dispose the writ petition with the following directions:

i) The 1st respondent shall consider and pass orders on Ext.P2 appeal preferred by the petitioner, within a period of two months 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.P1 assessment order shall be kept in abeyance till orders are passed by the 1st respondent as directed above and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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