

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. 39753 of 2015 (T)

PETITIONER:

E.NAZEERA AGED 34 YEARS
WIFE & LEGAL HEIRESS OF LATE A.NIZAM,
SEN TRADERS, CHANDANATHOPPE-P.O.
KOLLAM - 691 014

BY ADVS.SRI.V.DEVANANDA NARASIMHAM
SRI.P.H.RIYAS

RESPONDENTS:

1. THE INTELLIGENCE OFFICE (INVESTIGATION BRANCH)-II,
COMMERCIAL TAXES, COMMERCIAL TAX COMPLEX,
ASRAMAM, KOLLAM-691 002.
2. THE COMMERCIAL TAX OFFICER-1,
COMMERCIAL TAXES,
KUNDARA, KOLLAM-691 501.
3. THE DEPUTY COMMISSIONER,
COMMERCIAL TAX COMPLEX,
ASRAMAM, KOLLAM-691 002.
4. THE TAHSILDAR (RR),
TALUK CUTCHERRY P.O.,
KOLLAM - 691 001.

BY GOVERNMENT PLEADER SRI.R.RENJITH

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 : COPY OF DEATH CERTIFICATE OF A.NIZAM ISSUED BY THE GOVERNMENT OF TAMILNADU DATED 29.11.2013
- EXT.P2 : COPY OF THE PENALTY ORDER DATED 02.02.2015 FOR THE YEAR 2009-10 FOR RS.1,55,135/- ISSUED U/S 67(1) OF THE KVAT ACT, BY 1ST RESPONDENT TO THE PETITIONER.
- EXT.P3 : COPY OF THE PENALTY ORDER DATED 02.02.2015 FOR THE YEAR 2010-11 FOR RS.46,66,560/- ISSUED U/S 67(1) OF THE KVAT ACT BY 1ST RESPONDENT TO THE PETITIONER.
- EXT.P4 : COPY OF REVISION PETITION DATED 26.02.2015 FILED FOR 2009-10 BEFORE THE 3RD RESPONDENT BY THE PETITIONER.
- EXT.P5 : COPY OF REVISION PETITION DATED 26.02.2015 FILED FOR 2010-11 BEFORE 3RD RESPONDENT BY THE PETITIONER.
- EXT.P6 : COPY OF INTERLOCUTORY APPLICATION DATED 26.02.2015 FILED FOR 2009-10 BEFORE THE 3RD RESPONDENT BY PETITIONER.
- EXT.P7 : COPY OF INTERLOCUTORY APPLICATION DATED 26.02.2015 FILED FOR 2010-11 BEFORE 3RD RESPONDENT BY PETITIONER.
- EXT.P8 : COPY OF RR NOTICE DATED 05.05.2015 ISSUED U/S 7 OF THE RR ACT FOR 2009-10 DEMANDING PENALTY RS.1,55,135/- INTEREST & COLLECTION CHARGES BY 4TH RESPONDENT.
- EXT.P9 : COPY OF RR NOTICE DATED 05.05.2015 ISSUED U/S 7 OF THE RR ACT FOR 2010-11 DEMANDING PENALTY RS.46,66,560/- INTEREST & COLLECTION CHARGES BY 4TH RESPONDENT.
- EXT.P10 : COPY OF THE PRE-ASSESSMENT NOTICE DATED 12.11.2015 ISSUED U/S 25(1) OF THE KVAT ACT FOR 2010-11.
- EXT.P11: COPY OF INTERLOCUTORY APPLICATION FOR ABSOLUTE STAY DATED 21.12.2015 FOR 2009-10 FILED BEFORE 3RD RESPONDENT BY THE PETITIONER.
- EXT.P12 : COPY OF INTERLOCUTORY APPLICATION FOR ABSOLUTE STAY DATED 21.12.2015 FOR 2010-11 FILED BEFORE THE 3RD RESPONDENT BY PETITIONER.

RESPONDENT'(S) EXHIBITS: NIL

// TRUE COPY//

P A TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.39753 of 2015

Dated this the 23rd day of December 2015

JUDGMENT

Against Exts.P2 and P3 penalty orders under the Kerala Value Added Tax Act, the petitioner has preferred Exts.P4 and P5 revision petitions and Exts.P11 and P12 stay petitions before the 3rd 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 Exts.P2 and P3 penalty orders.

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 3rd respondent shall consider and pass orders on Exts.P11 and P12 stay petitions 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.P2 and P3 penalty orders shall be kept in abeyance till orders are passed by the 3rd respondent as directed above and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/