

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. 39778 of 2015 (V)

PETITIONER(S):

**M/S. AASHA LEVIN LIGHTING SYSTEMS PRIVATE LIMITED,
NEHRU STADIUM, KALOOR, KOCHI-17,
REPRESENTED BY ITS MANAGING DIRECTOR
RAKESH RAMACHANDRAN.**

**BY ADVS.SRI.C.A.CHACKO,
SMT.C.M.CHARISMA,
SMT.MEGHA K.XAVIER.**

RESPONDENT(S):

- 1. DEPUTY COMMISSIONER (APPEALS),
ERNAKULAM-682 018.**
- 2. THE ASSISTANT COMMISSIONER,
SPECIAL CIRCLE-1, COMMERCIAL TAXES,
ERNAKULAM-682 018.**

BY GOVT. 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:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE ASSESSMENT ORDER ALONG WITH DEMAND
NOTICE DATED 06/08/2015.
- EXT.P2 COPY OF THE APPEAL NO.1943/2015 FILED BEFORE
1ST RESPONDENT.
- EXT.P3 COPY OF THE STAY PETITION FILED BEFORE THE 1ST RESPONDENT.
- EXT.P4 COPY OF THE ORDER 04/12/2015 OF 1ST RESPONDENT.
- EXT.P5 COPY OF THE CREDIT NOTE STATEMENT AND DEBIT NOTE
STATEMENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 39778 of 2015

Dated this the 23rd day of December, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P4 conditional order of stay passed by the 1st respondent in a stay petition filed along with an appeal against an order of assessment passed in relation to the petitioner for the assessment year 2009-10 under the KVAT Act. The grievance of the petitioner is essentially that, while passing Ext.P4 order, the 1st respondent did not exercise its discretion validly.

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

3. On a perusal of Ext.P4, I find that the contentions of the petitioner have been discussed by the 1st respondent and it is only after consideration of the same that the 1st respondent found that the petitioner was entitled only to a conditional order of stay. I do not find Ext.P4 order to be vitiated by any jurisdictional error or non compliance with the rules of natural justice. I therefore, dismiss the writ petition, in its challenge against Ext.P4 order.

Counsel for the petitioner would submit that the petitioner requires some time to comply with the directions in Ext.P4 order. Taking note of the plea of financial hardship urged on behalf of the petitioner, I direct that, if the petitioner complies with the directions in Ext.P4 order on or before 15.01.2016, then the same shall be treated as in compliance with Ext.P4 order and the 1st respondent shall proceed to pass final orders in the appeal, thereafter.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE