

**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. 39841 of 2015 (E)**  
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**PETITIONER(S):**  
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**M/S. DONER KABAB, 34/1087 (FC-17A),  
LULU INTERNATIONAL SHOPPING MALL,  
EDAPPALLY, KOCHI-682 034,  
REPRESENTED BY ITS MANAGER SHAJI M.**

**BY ADV. DR.K.P.PRADEEP.**

**RESPONDENT(S):**  
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- 1. STATE OF KERALA,  
REPRESENTED BY ITS PRINCIPAL SECRETARY TO TAXES,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. COMMERCIAL TAX OFFICER, 1ST CIRCLE,  
DEPARTMENT OF COMMERCIAL TAXES,  
KALAMASSERY AT CIVIL STATION,  
KAKKANAD, ERNAKULAM-682 030.**
- 3. ASSISTANT COMMISSIONER (APPEALS),  
DEPARTMENT OF COMMERCIAL TAXES,  
ERNAKULAM-682 016.**
- 4. INSPECTING ASSISTANT COMMISSIONER,  
DEPARTMENT OF COMMERCIAL TAXES,  
KAKKANAD, ERNAKULAM-682 030.**

**BY GOVT. PLEADER SRI.R. RANJITH.**

**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 NO.32071232823/13-14  
DATED 08/10/2015 ISSUED BY THE 2ND RESPONDENT TO  
THE PETITIONER.
- EXT.P2 COPY OF THE APPEAL DATED 16/11/2015 FILED AGAINST EXT.P1  
ASSESSMENT ORDER AND PENDING BEFORE THE 3RD RESPONDENT.
- EXT.P3 COPY OF THE APPLICATION DATED 16/11/2015 FOR STAY  
IN EXT.P2 APPEAL PENDING BEFORE THE 3RD RESPONDENT.
- EXT.P4 COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE RR ACT  
NO.A5.3458/15 DATED 17/12/2015 ISSUED BY THE 4TH RESPONDENT  
TO THE PETITIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

**A.K.JAYASANKARAN NAMBIAR, J.**  
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**W.P.(C). No. 39841 of 2015**  
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**Dated this the 23<sup>rd</sup> day of December, 2015**

**JUDGMENT**

Against Ext.P1 assessment order passed under the Kerala Value Added Tax Act, hereinafter referred to as the KVAT Act, the petitioner preferred Ext.P2 appeal and Ext.P3 stay petition before the 3<sup>rd</sup> respondent. It is the case of the petitioner that even before the consideration of the stay petition by the 3<sup>rd</sup> respondent, recovery steps have been initiated by issuing Ext.P4 demand notice for recovery of the amounts confirmed against the petitioner.

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

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ petition with a direction to the 3<sup>rd</sup> respondent to consider and pass orders on Ext.P3 stay petition preferred by the petitioner before him, within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner. Recovery steps for

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recovery of amounts pursuant to Ext.P4 notice, shall be kept in abeyance till such time as the 3<sup>rd</sup> respondent passes orders as directed and communicated the same to the petitioner.

Sd/-

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

das /23.12.15