

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. 39852 of 2015 (F)

PETITIONER(S):

**1. M/S. SYNTHITE INDUSTRIES LTD.,
KOLENCHERY, ERNAKULAM DISTRICT,
REPRESENTED BY ITS MANAGING FINANCE,
GEORGE VARGHESE.**

**2. M/S. VENUS TRADING CO.,
22, KRISHNA CHETTY STREET,
ERODE-638 003, REPRESENTED BY ITS
MANAGER, P. GOPAL.**

**BY ADVS.SRI.HARISANKAR V. MENON,
SMT.MEERA V.MENON.**

RESPONDENT(S):

**1. THE ASSISTANT COMMISSIONER (ASSESSMENT),
COMMERCIAL TAXES, SPECIAL CIRCLE-III,
THEVARA, ERNAKULAM-682 013.**

**2. THE INTELLIGENCE OFFICER, SQUAD NO.V,
DEPARTMENT OF COMMERCIAL TAXES,
PALAKKAD-678 001.**

**3. INDIAN OVERSEAS BANK, G.B. ROAD,
PALAKKAD-678 001, REPRESENTED BY ITS MANAGER.**

**R1 & R2 BY GOVT. PLEADER SMT.LILLY K.T.
R3 BY ADV. SRI.SUNIL SHANKAR, SC.**

**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 INVOICE NO.16 ISSUED BY THE 2ND PETITIONER
DATED 18/06/2015.
- EXT.P2 COPY OF THE FORM 8F GENERATED BY THE PETITIONER
DATED 18/06/2015.
- EXT.P3 COPY OF THE NOTICE IN FORM NO.17A ISSUED BY THE
2ND RESPONDENT DATED 19/06/2015.
- EXT.P4 COPY OF THE JUDGMENT IN WP(C).NO.18766/2015 OF THIS
HON'BLE COURT DATED 23/06/2015.
- EXT.P5 COPY OF THE BANK GUARANTEE FURNISHED BY THE
2ND PETITIONER BEFORE THE 3RD RESPONDENT
DATED 24/06/2015.
- EXT.P6 COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT
DATED 07/12/2015.

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 39852 of 2015

Dated this the 23rd day of December, 2015

JUDGMENT

The petitioner, against whom Ext.P6 penalty order has been passed, seeks time to pursue his appellate remedy against Ext.P6 order before the appellate authority under the KVAT Act. The grievance of the petitioner in the writ petition is that the respondents are, in the meanwhile, taking steps to encash Ext.P5 bank guarantee, that was furnished by the petitioner pursuant to orders of this Court, before the respondents.

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

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, and taking note of the fact that Ext.P6 order imposing penalty was served on the petitioner only yesterday, and the petitioner is to be afforded a breathing time to pursue his appellate remedy against the said order, I dispose the writ petition with a direction to the respondents to keep in abeyance further steps for encashing Ext.P5

W.P.(C). No. 39852 of 2015

bank guarantee, for a period of three weeks, so as to enable the petitioner to pursue his appellate remedy against Ext.P6 order.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /23.12.15