

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 29TH DAY OF FEBRUARY 2012/10TH PHALGUNA 1933

WP(C) .No. 4958 of 2012 (T)  
-----

PETITIONER(S) :  
-----

M/S.KAVERI PET AND POLYFORMS PVT. LTD.  
PERINGOLE, KOLENCHERRY, KOCHI-682 311  
REPRESENTED BY ITS EXECUTIVE DIRECTOR SRI.A.R.SASIKUMAR.

BY ADVS.SRI.ANIL D. NAIR  
SRI.J.R.PREM NAVAZ  
SMT.NIVEDITA A.KAMATH

RESPONDENT(S) :  
-----

1. THE ASSISTANT COMMISSIONER-II  
SPECIAL CIRCLE, PERUMBAVOOR.
2. THE DEPUTY COMMISSIONER (APPEALS)  
ERNAKULAM 682030.
3. STATE OF KERALA  
REPRESENTED BY ITS SECRETARY (TAXES) , SECRETARIAT  
THIRUVANANTHAPURAM 695 001.

BY GOVERNMENT PLEADER SRI.MANOJ P KUNJACHAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
29-02-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jm

WPC NO. 4958 OF 2012

APPENDIX

PETITIONER(S) EXHIBITS

EXHIBIT P1- TRUE COPY OF THE ORDER DATED 15.12.2009 OF THE 1ST  
RESPONDENT FOR THE MONTH OF JUNE 2009.

EXHIBIT P2- TRUE COPY OF THE ORDER DATED 15.12.2009 OF THE 1ST  
RESPONDENT FOR THE MONTH OF JULY 2009.

EXHIBIT P3- TRUE COPY OF THE APPEAL FILED BEFORE THE 2ND RESPONDENT FOR  
THE MONTH OF JUNE 2009.

EXHIBIT P4- TRUE COPY OF THE APPEAL FILED BEFORE THE 2ND RESPONDENT FOR  
THE MONTH OF JULY 2009.

EXHIBIT P5- TRUE COPY OF THE STAY PETITION FILED BEFORE THE 2ND  
RESPONDENT FOR THE MONTH OF JUNE 2009.

EXHIBIT P6- TRUE COPY OF THE STAY PETITION FILED BEFORE THE 2ND  
RESPONDENT FOR THE MONTH OF JULY 2009.

EXHIBIT P7- TRUE COPY OF THE COMMON ORDER DATED 24.1.12 OF THE SECOND  
RESPONDENT.

RESPONDENTS' EXHIBITS : NIL

\\TRUE COPY\\

PA TO JUDGE

jm

**S. SIRI JAGAN, J.**

-----  
W.P.(C) No.4958 of 2012  
-----

Dated this the 29<sup>th</sup> day of February, 2012

**JUDGMENT**

The petitioner challenges Ext.P7 order passed by the 2<sup>nd</sup> respondent appellate authority under the Kerala Value Added Tax Act in a stay petition accompanying an appeal against an assessment order passed by the 1<sup>st</sup> respondent, whereby the petitioner was directed to pay 50% of the amount and furnish security for the balance amount as a condition for grant of stay of further proceedings pursuant to the assessment order. The petitioner submits that the petitioner has a very good prim facie case on merits and therefore, the 2<sup>nd</sup> respondent ought to have granted a complete stay instead of imposing conditions for such stay. The petitioner also submits that the 2<sup>nd</sup> respondent has not passed the order in accordance with the principles laid down by this Court in several decisions for consideration of such stay petitions.

2. I have heard the learned Government Pleader also.

On going through Ext.P7order, I find that the 2<sup>nd</sup> respondent has passed the order in the right perspective. The prima facie case of the petitioner has been duly considered and reasons have been stated also. As such, I do not find any infirmity whatsoever in Ext.P7 order. In view of the above view of the Court, the learned counsel for the petitioner seeks some more time to comply with the directions in Ext.P7 order.

Accordingly while dismissing this writ petition, I direct the respondents to grant the petitioner two more weeks' time from today to comply with the conditions in Ext.P7 order.

**S. SIRI JAGAN, JUDGE**

acd



