

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 31ST DAY OF MARCH 2016/11TH CHAITHRA, 1938

WP(C) .No. 11880 of 2016 (H)  
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PETITIONER:  
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N.J.JOHNY,  
NEDUGNATTU CHUNDANTHADATH HOUSE,  
KAVAKKAD P.O.,  
MUVATTUPUZHA.

BY ADVS. SRI.P.S.SOMAN PULLADAN  
SMT.T.RADHAMANY

RESPONDENT(S) :  
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1. COMMERCIAL TAX OFFICER,  
DEPARTMENT OF COMMERCIAL TAXES,  
MUVATTUPUZHA.
2. INTELLIGENCE OFFICER,  
SQUAD - V,  
COMMERCIAL TAXES AT MINI CIVIL STATION,  
PERUMBAVOOR.
3. DEPUTY COMMISSIONER  
COMMERCIAL TAXES, TAX COMPLEX,  
MATTANCHERRY.

R1 TO R3 BY SMT.K.T.LILLY GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 31-03-2016, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

p.t.o

WP(C).No. 11880 of 2016 (H)

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APPENDIX

PETITIONER(S) ' EXHIBITS:

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EXT.P1:TRUE COPY OF THE PENALTY ORDER PASSED BY THE 2ND RESPONDENT  
AGAINST THE PETITIONER FOR THE YEAR 2010-11 DATED 30.12.2015

EXT.P2:TRUE COPY OF THE REVISION PETITION FILED BY THE PETITIONER  
BEFORE THE 3RD RESPONDENT DATED 24.01.2016

EXT.P3:TRUE COPY OF THE APPLICATION FOR OUT OF TURN HEARING OF THE  
REVISION PETITION FILED BY THE PETITIONER BEFORE THE 3RD  
RESPONDENT DATED 24.1.2016.

EXT.P4:TRUE COPY OF THE APPLICATION FOR STAY OF COLLECTION FILED BY  
THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 24.01.2016

EXT.P5:TRUE COPY OF THE PROPOSAL NOTICE ISSUED BY THE 1ST RESPONDENT  
TO THE PETITIONER UNDER SECTION 25(1) OF THE KVAT ACT DATED  
27.02.2016.

EXT.P6:TRUE COPY OF THE REPLY FILED BY THE PETITIONER BEFORE THE  
1ST RESPONDENT DATED 14.3.2016.

RESPONDENT(S) ' EXHIBITS:           NIL

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/TRUE COPY/

P.A.TO JUDGE

ATG/

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C) No.11880 of 2016**  
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Dated this the 31<sup>st</sup> day of March 2016

**JUDGMENT**

Against Ext.P1 penalty order passed under the Kerala Value Added Tax (KVAT) Act, the petitioner preferred Ext.P2 revision petition along with Ext.P4 stay application, before the 3<sup>rd</sup> respondent. The grievance of the petitioner in the writ petition is essentially that, even before disposing the revision petition, the respondents are taking steps to complete an assessment under Section 25(1) of the KVAT Act, relaying solely on the penalty order passed against the petitioner.

2. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

3. The learned Government Pleader on instructions would submit that pursuant to the notice issued to the petitioner under Section 25(1) of the KVAT Act, an assessment order has already been passed by the 1<sup>st</sup> respondent and the petitioner would have to challenge the said assessment order through an appeal, if he is aggrieved by the same. Taking note of the said submission of the

learned Government Pleader on instructions, I find that the only relief that can be granted in the writ petition is a direction to the 3<sup>rd</sup> respondent, before whom Ext.P2 revision petition filed by the petitioner is pending, to consider and pass orders in the revision petition, expeditiously, within a time frame. Accordingly, I direct the 3<sup>rd</sup> respondent to consider and pass orders on Ext.P2 revision petition, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. It is made clear that recovery proceedings for recovery of amounts confirmed against the petitioner by Ext.P1 penalty order, shall be kept in abeyance, till such time as orders are passed by the 3<sup>rd</sup> respondent as directed and communicated to the petitioner. I also make it clear that while passing this order, I have taken note of the submission of the learned counsel for the petitioner that the revision authority has already disposed the stay application filed by the petitioner in the revision petition filed by him, by passing a conditional order of stay. The directions in this judgment shall be taken as superseding the directions of the 3<sup>rd</sup> respondent in the stay application referred above.

The writ petition is disposed as above.

Sd/-  
**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

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