

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 31ST DAY OF JANUARY 2017/11TH MAGHA, 1938

WP(C).No. 3229 of 2017 (C)

PETITIONER(S) :

B.V.RAMANAIAH,
BBS ENTERPRISES, DOOR NO.2535B,
'PUNERTHAM', CHEMMATH ROAD,
KALLOR, KOCHI, PIN-682 017

BY ADV. SRI.R.MURALEEDHARAN (ARoor)

RESPONDENT(S) :

1. THE COMMERCIAL TAX OFFICER,
KVAT SECOND CIRCLE,
DEPARTMENT OF COMMERCIAL TAXES,
TRIPUNITHURA, PIN-682 301
2. THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM, PIN-682 015
3. THE INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM,
CIVIL STATION, KAKKANAD, PIN-682 030

BY GOVERNMENT PLEADER SRI.V.K.SHAMSUDHEEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-01-2017, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING

SKG

APPENDIX

PETITIONER(S) ' EXHIBITS

- EXHIBIT P1- THE TRUE COPY OF THE ASSESSMENT ORDER PASSED BY
THE 1ST RESPONDENT FOR THE YEAR 2011-12,
DATED 27.08.2016
- EXHIBIT P2- THE TRUE COPY OF THE ASSESSMENT ORDER PASSED BY
THE 1ST RESPONDENT FOR THE YEAR 2012-13,
DATED 27.08.2016
- EXHIBIT P3- THE TRUE COPY OF THE APPEAL FILED BY THE
PETITIONER BEFORE 2ND RESPONDENT AGAINST EXT.P-1
ORDER DATED 28.10.2016
- EXHIBIT P4- THE TRUE COPY OF THE APPEAL FILED BY THE
PETITIONER BEFORE 2ND RESPONDENT AGAINST EXT.P-2
ORDER DATED 28.10.2016
- EXHIBIT P5- THE TRUE COPY OF THE APPLICATION FOR STAY FILED
BEFORE THE 2ND RESPONDENT DATED 28.10.2016 ALONG
WITH EXT.P3 APPEAL
- EXHIBIT P6- THE TRUE COPY OF THE APPLICATION FOR STAY FILED
BEFORE THE 2ND RESPONDENT DATED 28.10.2016 ALONG
WITH EXT.P4 APPEAL
- EXHIBIT P7- THE TRUE COPY OF THE DEMAND NOTICE ISSUED UNDER
R.R. ACT, DATED 19.01.2017 FOR RECOVERY OF BALANCE
AS PER EXT.P-1
- EXHIBIT P8- THE TRUE COPY OF THE DEMAND NOTICE ISSUED UNDER
R.R. ACT, DATED 19.01.2017 FOR RECOVERY OF BALANCE
AS PER EXT.P-2

RESPONDENT(S) ' EXHIBITS

NIL

/TRUE COPY/

P.S. TO JUDGE

SKG

K. VINOD CHANDRAN, J.

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W.P.(C)No.3229 of 2017 - C

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Dated this the 31st day of January, 2017

J U D G M E N T

Exts.P1 and P2 are the assessment orders passed against the petitioner for the assessment years 2011-12 and 2012-13. Against which, the petitioner filed Exts.P3 and P4 appeals, which are accompanied by Exts.P5 and P6 stay petitions before the 2nd respondent. Appeals and stay petitions are pending before the 2nd respondent. In the meanwhile, coercive proceedings have been initiated. It is in this context, the writ petition has been filed.

2. In the above circumstances, it is directed that the appellate authority, the 2nd respondent herein, consider and dispose of Exts.P5 and P6 stay applications within a period of two months from the date of receipt of a certified copy of this

W.P.(C)No.3229/2017

judgment and the coercive proceedings be stayed until such orders are passed, which order shall determine the matter thereafter. The consideration is also to be made keeping in mind proviso to Section 55(4) of the Kerala Value Added Tax Act, 2003 and condition if at all imposed confined to 20% or less, of the tax demand, at the first appellate stage.

The writ petition is disposed of without any observation on merits and keeping in abeyance the recovery till such time as the directions herein are complied with by the appellate authority, whose orders shall determine the further steps thereafter.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

SB/31/01/2017

// true copy //

P.A to Judge