

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 28TH DAY OF SEPTEMBER 2018 / 6TH ASWINA, 1940

WP(C).No. 31153 of 2018

PETITIONER:

ABDUL RAZAK CHEKINTE
S/O. MUHAMMED P., AGED 50,
PROPRIETOR, 'METRO AGENCIES', HIBAS,
PERUMBA, PAYYANNUR, KANNUR DISTRICT.

BY ADV. SMT.C.LEENA

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT, TAXES
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
- 2 COMMERCIAL TAX OFFICER
PAYYANNUR, KANNUR DISTRICT - 670 307.
- 3 INSPECTING ASSISTANT COMMISSIONER
COMMERCIAL TAXES DEPARTMENT, KANNUR - 670 001.
- 4 THE ASSISTANT COMMISSIONER (APPEALS)
COMMERCIAL TAXES DEPARTMENT, KOZHIKODE - 673 001.
- 5 THE SPECIAL DEPUTY TAHSILDAR
REVENUE RECOVERY, TALUK OFFICE, THALIPARAMBA,
KANNUR DISTRICT - 670 141.

SMT.THUSHARA JAMES, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28.09.2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner, a registered dealer under the Kerala Value Added Tax Act, 2003 ('KVAT Act') questioned the Ext.P1 assessment order, before the 4th respondent. The petitioner has also filed a stay petition in the appeal. Ventilating his grievance that the authorities are taking coercive steps before the appellate authority could consider the stay petition, the petitioner has filed this writ petition.

2. Heard the learned counsel for the petitioner and the learned Government Pleader.

3. I reckon the petitioner has exercised on time his statutory remedy of filing an appeal. It appears that he has also filed a stay petition. Procedural fairness demands that the authorities may wait, before taking further steps, until the appellate authority decides on the stay petition.

Therefore, I dispose of the writ petition directing the respondent authority to defer coercive steps until the 4th respondent considers the stay petition. I also hope that the 4th respondent will dispose of the stay petition expeditiously.

Sd/-

A.MUHAMED MUSTAQUE

JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF ASSESSMENT ORDER FOR YEAR 2013-14 BY 2ND RESPONDENT.
EXHIBIT P2	TRUE COPY OF THE ASSESSMENT ORDER FOR YEAR 2014-15 BY 2ND RESPONDENT.
EXHIBIT P3	TRUE COPY OF DEMAND NOTICE DATED 9/12/2016 BY 5TH RESPONDENT IN FURTHERANCE OF EXHIBIT P1 ORDER.
EXHIBIT P4	TRUE COPY OF DEMAND NOTICE DATED 9/12/2016 BY 5TH RESPONDENT IN FURTHERANCE OF EXHIBIT P2 ORDER.
EXHIBIT P5	TRUE COPY OF APPELLATE ORDER DATED 29/9/2017 PASSED BY 3RD RESPONDENT.
EXHIBIT P6	TRUE COPY OF APPEAL MEMORANDUM CHALLENGING APPELLATE ORDER FOR YEAR 2013-14 WITH COPY OF CHALAN FOR PAYMENT OF FEE ON STAY PETITION.
EXHIBIT P7	TRUE COPY OF APPEAL MEMORANDUM CHALLENGING APPELLATE ORDER FOR YEAR 2014-15 WITH COPY OF CHALAN FOR PAYMENT OF FEE ON STAY PETITION.
EXHIBIT P8	TRUE COPY OF THE STAY PETITION WITH AFFIDAVIT FILED ALONG WITH EXHIBIT P6 APPEAL
EXHIBIT P9	TRUE COPY OF THE STAY PETITION WITH AFFIDAVIT FILED ALONG WITH EXHIBIT P7 APPEAL

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

SKK

P.A. TO JUDGE