

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

FRIDAY, THE 28TH DAY OF FEBRUARY 2020 / 9TH PHALGUNA, 1941

WP(C).No.5906 OF 2020(K)

PETITIONER/S:

ANTONY .P.Y
AGED 50 YEARS
S/O. YOHANNAN, PATHIPARAMBAN HOUSE, NADATHARA P.O.,
THRISSUR DISTRICT

BY ADV. SRI.MAHESH V.MENON

RESPONDENT/S:

- 1 STATE TAX OFFICER -II
DEPARTMENT OF GOODS AND SERVICE TAX,
GOVERNMENT OFFICE BUILDING COMPLEX,
WADAKKANCHERRY - 680 582
- 2 THE DEPUTY COMMISSIONER OF (APPEALS)
DEPARTMENT OF GOODS AND SERVICE TAX, POOTHOLE,
THRISSUR - 680 004

GP DR THUSHARA JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28.02.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner filed appeal in Ext.P2 aggrieved by the order of assessment in Ext.P1 made under the KVAT Act. The petitioner has filed the appeals with a delay condonation petition of 12 days in Ext.P3 and Ext.P4 stay petition. The petitioner prays for appropriate direction to the appellate authority to consider and dispose of Ext.P3 and Ext.P4 expeditiously.

2. The case of petitioner is that either the mere filing of appeal or pendency of appeal does not amount to granting stay by the appellate authority. The delay in considering and disposing of Exts.P3 delay petition and P4 stay petition results in the assessing officer taking steps for recovering the tax amount which is under challenge in Ext.P2. The assessing officer, if is successful in his effort the statutory appeal would become either academic or ineffective. It is further contended by the petitioner that in the manner the law provides for protecting the interest of appellant pending appeal, the orders on delay petition and stay petition are passed expeditiously. Hence the writ petition.

3. Perused Exts.P1, P2, P3 and P4 . *Prima facie* I am satisfied that

a case is made out for issuing necessary directions to 2nd respondent to dispose of the delay condonation petition and stay petition in Exts.P3 and P4 respectively.

Having regard to the limited prayer and the grounds referred to above, this Court is satisfied that the writ petition can be disposed of by this order:

- (a) The appellate authority/2nd respondent considers and disposes of Exts.P3 and P4 applications as early as possible, preferably within two months from the date of receipt of copy of this judgment.
- (b) The respondents are directed not to take coercive steps or recover the amount determined in the orders under appeal for ten weeks from today.

sd/-

S.V.BHATTI

JUDGE

JS

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF ASSESSMENT ORDER ISSUED BY THE 1ST RESPONDENT FOR THE ASSESSMENT YEAR 2014-15
EXHIBIT P2	A TRUE COPY OF APPEAL PREFERRED BY THE PETITIONER BEFORE THE 2ND RESPONDENT
EXHIBIT P3	A TRUE COPY OF DELAY CONDONATION PETITION FILED BY THE PETITIONER ALONG WITH EXT P3 APPEAL
EXHIBIT P4	A TRUE COPY OF THE STAY PETITION