

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.6087 OF 2020(I)

PETITIONER/S:

PARK DIAMONDS  
G2 AND G3, LULU INTERNATIONAL SHOPPING MALL, EDAPPALLY, KOCHI-  
682 024, REPRESENTED BY SARATH KRISHNAN.M.R., MANAGING  
PARTNER, PARK DIAMONDS

BY ADVS.  
SRI.K.M.CHERIAN  
SRI.R.RAMAKRISHNAN POTTY  
SRI.P.M.GIRIJAVALLABHAN

RESPONDENT/S:

- 1 THE STATE TAX OFFICER  
SGST DEPARTMENT, 1ST CIRCLE, KALAMASSERY, CIVIL STATION,  
KAKKANAD-682 030
- 2 THE DEPUTY COMMISSIONER (APPEALS)  
DEPT. OF COMMERCIAL TAX, ERNAKULAM, KOCHI-682 015
- 3 THE DEPUTY TAHSILDAR  
THRISSUR TALUK,THRISSUR -680 020
- 4 THE STATE OF KERALA,  
REPRESENTED BY THE SECRETARY, DEPARTMENT OF COMMERCIAL  
TAXES, SECRETARIAT, THIRUVANANTHAPURAM-695 014

OTHER PRESENT:

GP SMT.M M JASMINE

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

## **J U D G M E N T**

Dated this the 28th day of February 2020

The petitioner filed appeal in Ext.P3 aggrieved by the order of assessment in Ext.P1 made under Section 25(1) of the KVAT Act. The petitioner has filed the appeal with Ext.P5 stay petition. The petitioner prays for appropriate direction to the appellate authority to consider and dispose of Ext.P5 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 Ext.P5 results in the assessing officer taking steps for recovering the tax amount which is under challenge in Ext.P3. 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 order on stay petition is passed expeditiously. Hence the writ petition.

3. Perused Exts. P1, P3 and P5. *Prima facie* I am satisfied that a case is made out for issuing necessary directions to second respondent to dispose of the stay petition in Ext.P5.

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/second respondent considers and disposes of Ext.P5 stay application 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 order under appeal for ten weeks from today.

Sd/-

S.V.BHATTI

JUDGE

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE ASSESSMENT ORDER NO.32071207465/13-14 DATED 01.09.2019 FOR THE YEAR 2013-14 ISSUED BY THE FIRST RESPONDENT
EXHIBIT P2	TRUE COPY OF THE REVENUE RECOVERY NOTICE NO 2019/19085/07 DATED 19.02.2020 ISSUED BY THE 3RD RESPONDENT AND TRANSLATION
EXHIBIT P3	TRUE COPY OF THE APPEAL FILED FOR THE FINANCIAL YEAR 2013-14 DATED 12.12.2019
EXHIBIT P4	TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR URGENT HEARING FILED FOR THE FINANCIAL YEAR 2013-14 DATED 12.12.2016
EXHIBIT P5	TRUE COPY OF THE INTERLOCUTORY APPLICATION PRAYING FOR THE STAY OF COLLECTION OF TAX FILED FOR THE YEAR 13-14 DATED 12.12.2019