IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 1228 of 2013 (C)

PETITIONER(S):
----

1. A. POOKUNJU,
   APK CASHEW INDUSTRIES, MALIKA VEEDU, KILIKOLLOOR,
   KOLLAM.

2. SHANIFA,
   MAHIN MANZIL, MANGADU, KILIKOLLUR,
   KOLLAM.

   BY ADV. SRI.S.ABDUL RAZZAK

RESPONDENT(S):
----

1. THE ASST. COMMISSIONER (ASSESSMENT),
   SPECIAL CIRCLE, KOLLAM - 691 001.

2. THE DEPUTY TAHSILDAR (R.R),
   CIVIL STATION, KOLLAM - 691 001.

   BY GOVERNMENT PLEADER SRI.P.V.LONACHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 1228 of 2013 (C)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1. PHOTOCOPY OF ASSESSMENT ORDER DATED 30.11.2006.

EXHIBIT P2. PHOTOCOPY OF DEMAND NOTICE DATED 30.11.2006.

EXHIBIT P3. PHOTOCOPY OF R.R DEMAND NOTICE DATED 09.04.2007.

EXHIBIT P4. PHOTOCOPY OF SALE NOTICE DATED 10.10.07.

EXHIBIT P5. PHOTOCOPY OF THE REVISED ASSESSMENT ORDER DATED 05.02.2010.

EXHIBIT P6. PHOTOCOPY OF JUDGMENT DATED 10.02.2010 IN WPC NO.4267/2010.

EXHIBIT P7(a) TO P7(i).PHOTOCOPIES OF PAYMENT RECEIPTS.

EXHIBIT P8. PHOTOCOPY OF SALE NOTICE DT. 27.12.2012.

EXHIBIT P9. PHOTOCOPY OF REGISTERED TITLE NEED DATED 13.12.1995.

EXHIBIT P10. PHOTOCOPY OF CORRECTION DEED REGISTERED ON 20.6.2012.

EXHIBIT P11. PHOTOCOPY OF ASSESSMENT ORDER DTD.23-6-1997.

EXHIBIT P12. PHOTOCOPY OF RECEIPT DTD.18.11.1997.

EXHIBIT P13. PHOTOCOPY GST ASSESSMENT ORDER DTD.1.12.1997.

EXHIBIT P14. PHOTOCOPY OF THE RECEIPT DTD.29.7.1998.

EXHIBIT P15. PHOTOCOPY OF PETITIONER;S LETTER DTD. 25.1.2010.

EXHIBIT P16. PHOTOCOPY OF 1ST RESPONDENT'S LETTER DTD.1.2.2013.

EXHIBIT P17. PHOTOCOPIES OF 7 RECEIPTS UNDER D3-694/03.

EXHIBIT P18. PHOTOCOPY OF ORDER DTD.16.8.2005.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.1228 of 2013

....

Dated this the 25th day of February, 2015

J U D G M E N T

Petitioners have approached this Court aggrieved by revenue recovery proceedings that were initiated against him for recovery of alleged amounts due from him under the Kerala General Sales Tax Act (hereinafter referred to as 'the KGST Act') and Central Sales Tax Act (hereinafter referred to as 'the CST Act'). Ext.P8 is the sale notice that was issued under the provisions of the Revenue Recovery Act. Through an I.A.No.1628 of 2015, filed in this writ petition, the 1st respondent has averred that since the petitioners have paid the full arrear amounts for the relevant year, the revenue recovery proceedings initiated against him has already been withdrawn by an office letter dated 05.01.2015 addressed to the Tahsildar, Revenue Recovery Kollam. It is also clarified that all revenue recovery action initiated against the 1st petitioner has subsequently been withdrawn. It is apparent that, in the light of the said affidavit, the writ petition filed by the petitioners will have to be allowed by recording the averments in the affidavit of the 1st respondent.

2. Counsel for the petitioners would point out that during the pendency of the proceedings substantial amounts have been paid

by way of KGST and CST dues to the respondents for the assessment year 1999-2000. It is his contention that, consequent to revised orders passed pursuant to appellate/revision proceedings, the excess payments made by him will now have to be refunded to him. This is more so, in the light of the fact that the revenue recovery proceedings against him have also now been dropped. Taking note of the said submission of counsel for the petitioners, I dispose the writ petition with the following directions:

i. The revenue recovery proceedings initiated against the petitioners, having been dropped by the respondents, the writ petition in its challenge against the said revenue recovery notice succeeds and is hereby allowed.

ii. The 1st respondent shall consider the payments that were made by the petitioners towards KGST and CST dues for the assessment year 1999-2000 and determine the amounts, if any, that are liable to be refunded to the petitioners pursuant to the completed assessments and recoveries effected from the petitioners. The 1st respondent shall intimate the petitioners of any such amounts within a period of two months from the date of receipt of a copy of this judgment. If any amounts are due to the petitioners by way of refund, the 1st respondent shall take steps in accordance with the KGST Act for effecting the said refund together with admissible interest.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns