IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WP(C).No. 604 of 2015 (A)
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PETITIONER(S) :
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LEE POLYMERS,
NEAR KURICHY OUTPOST, KURICHY P.O., CHANGANACHERRY,
(REPRESENTED BY N.K.KURUVILLA, MANAGING PARTNER)

BY ADV. SRI.K.N.SREEKUMARAN

RESPONDENT(S):
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1. COMMERCIAL TAX OFFICER,
   2ND CIRCLE, CHANGANACHERRY-686 101.

2. DEPUTY COMMISSIONER (APPEALS),
   COMMERCIAL TAXES, ERNAKULAM-682 015.

3. DEPUTY COMMISSIONER (APPEALS),
   COMMERCIAL TAXES, KOTTAYAM-686 001.

4. INSPECTING ASSISTANT COMMISSIONER,
   COMMERCIAL TAXES, KOTTAYAM-686 001.

5. STATE OF KERALA,
   REPRESENTED BY SECRETARY TO GOVERNMENT,
   TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM, PIN-695 001.

BY GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

**WP(C).No. 604 of 2015 (A)**
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**
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**P1 :** **TRUE COPY OF THE PENALTY ORDER DATED 30.11.2013 ISSUED BY THE INTELLIGENCE OFFICER, SQUAD NO- III, KOTTAYAM.**

**P2 :** **TRUE COPY OF THE APPEAL AGAINST EXT.P1 FILED BEFORE THE 2ND RESPONDENT ON 17.01.2014.**

**P3 :** **TRUE COPY OF THE ASSESSMENT ORDER FOR 2010-11 DATED 31.10.2014 ISSUED BY THE 1ST RESPONDENT.**

**P4 :** **TRUE COPY OF THE APPEAL AGAINST EXT.P3 FILED BEFORE THE 3RD RESPONDENT ON 18.11.2014.**

**P4(A):** **TRUE COPY OF THE EARLY APPLICATION FILED IN EXT.P4 APPEAL.**

**P4(B):** **TRUE COPY OF THE STAY APPLICATION FILED IN EXT.P4 APPEAL.**

**P5 :** **TRUE COPY OF DEMAND NOTICE BEARING NO.A5-1843/14-15, 1 CHRY (RRC 374/14-15) DATED 30.12.2014 ISSUED BY THE 4TH RESPONDENT.**

**RESPONDENT(S)' EXHIBITS**
**----------------------------------------**

**NIL**

**//TRUE COPY//**

**P.A.TO JUDGE.**

Msd.

**A.K.JAYASANKARAN NAMBIAR, J.**

**..............................................**

**W.P.(C) No. 604 of 2015 (A)**

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Dated this the 8th day of January, 2015

**JUDGMENT**

For the assessment year 2010 - 2011, the petitioner was served with Ext.P1 penalty order and Ext.P3 assessment order under the Kerala Value Added Tax Act, 2003. Against Ext.P1 order, he has preferred Ext.P2 appeal before the second respondent, which is stated to be now pending consideration before the third respondent to whom the files were transferred. Against Ext.P3 assessment order, the petitioner has preferred Ext.P4 appeal and P4(b) stay petition before the third respondent appellate authority.

2. It is the case of the petitioner that, even before considering Ext.P4(b) stay petition, Ext.P5 demand notice has been issued to him seeking recovery of the amounts confirmed by Ext.P3 assessment order. It is under these circumstances, the writ petition has been filed, seeking stay of further proceedings pursuant to Ext.P5 demand notice, pending consideration of the appeal against the penalty order, and the stay petition against the assessment order.

3. I have heard Sri.K.N.Sreekumar, learned counsel appearing for the petitioner and learned Government Pleader appearing for the respondents.

4. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with the following directions :

> 1. The third respondent shall consider and pass orders on Ext.P2 appeal preferred against Ext.P1 penalty order, as also on Ext.P4(b) stay petition preferred along with the appeal against Ext.P3 assessment order, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.
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> 2.Recovery steps initiated against the petitioner pursuant to Ext.P5 demand notice, shall be kept in abeyance, till such time, as orders are passed by the third respondent on Ext.P4(b) stay petition and communicated to the petitioner.
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> 3. While passing of the orders in the stay petition, the third respondent shall advert to the contentions raised by the petitioner and give reasons for his findings.

Sd/-
**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

AMV/09/01/