IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 1755 of 2015 (T)

PETITIONER:

M/S. WEST FORT HI-TECH HOSPITAL LTD.
POONKUNNAM, THRISSUR
REPRERSENTED BY ITS MANAGING DIRECTOR, K.M.MOHANDAS

BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON

RESPONDENTS:

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1. THE COMMERCIAL TAX OFFICER
   3RD CIRCLE, THRISSUR 680 001

2. COMMISSIONER OF COMMERCIAL TAXES
   THIRUVANANTHAPURAM 695 001.

3. STATE OF KERALA
   REPRESENTED BY ITS SECRETARY, TAX DEPARTMENT
   GOVT.SECRETARIAT, THIRUVANANTHAPURAM 695 001.

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 1755 of 2015 (T)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 - COPY OF RETURN FILED BY THE PETITIONER FOR THE PERIOD 2012-13 DT.15-6-2013

EXT.P2 - COPY OF STATEMENT OF PROFIT & LOSS ACCOUNTS OF THE PETITIONER DT.20-7-2013

EXT.P3 - COPY OF NOTICE ISSUED BY THE 1ST RESPONDENT DT.11-6-2014

EXT.P4 - COPY OF REPLY FILED BY THE PETITIONER DT.15-7-2014

EXT.P5 - COPY OF NOTICE ISSUED BY THE 1ST RESPONDENT DT.4-8-2014

EXT.P6 - COPY OF REPLY SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT WITH LEDGER ACCOUNT AND SOME SAMPLE COPIES OF BILLS DT.13-8-2014

EXT.P7 - COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DT.24-12-2014

RESPONDENTS' EXHIBITS:

NIL.

// TRUE COPY //

P.A. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).NO.1755 OF 2015

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Dated this the 27th day of January, 2015

J U D G M E N T

The writ petition is filed challenging Ext.P7 order of assessment and notice of demand issued pursuant thereto. Although various contentions have been raised in the writ petition against Ext.P7 assessment order, I am of the view that the petitioner has an effective alternate remedy against Ext.P7 assessment order under the provisions of the Kerala Value Added Tax Act. It is trite that normally this court would be averse to entertain a writ petition, challenging orders of assessment, save in exceptional circumstances such as where there is lack of jurisdiction in the officer passing the order or if the orders have been passed in patent violation of the rules of natural justice or by ignoring the period of limitation under the statute. In the instant case, none of the said irregularities have been shown to exist and, further, the issue is one that requires a consideration of factual aspects for its resolution. I am, therefore, of the view that the petitioner must be relegated to the alternate remedy of an appeal under the

Kerala Value Added Tax Act. Accordingly, reserving the right of the petitioner to approach the appellate authority under the Kerala Value Added Tax Act, this writ petition, in its challenge against the assessment order, is dismissed as not maintainable.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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