IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

WP(C).No. 1956 of 2015 (T)

PETITIONER(S):

M/S.PIDILITE INDUSTRIES LTD, NO.IV/236,
SHBC HOUSE, KAYANTIKARA ROAD, MUPPATHADAM P.O.,
ALUVA-683110, REPRESENTED BY ITS JR.OFFICER-ACCOUNTS.

BY ADVS.SRI.E.K.MADHAVAN
SMT.P.VIJAYAMMA
SRI.V.KRISHNA MENON
SRI.PRINSUN PHILIP

RESPONDENT(S):
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1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY (TAXES),
VIKAS BHAVAN, THIRUVANANTHAPURAM-695001.

2. THE ASSISTANT COMMISSIONER,
KVAT SPECIAL CIRCLE-I, SALES TAX COMPLEX,
M.G.ROAD, KOCHI-682015.

3. DEPUTY COMMISSIONER (APPEALS) II,
COMMERCIAL TAXES, ERNAKULAM-682015.

4. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM, KOCHI-682030.

BY GOVERNMENT PLEADER SMT.LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 1956 of 2015 (T)

APPENDIX

PETITIONERS' EXHIBITS

P1: COPY OF THE PRE-ASSESSMENT NOTICE DATED 11/3/13 FOR THE YEAR 2010-11

P2: COPY OF THE EXPLANATION DATED 26/3/13 SUBMITTED BY THE PETITIONER

P3: COPY OF THE NOTICE DATED 23/9/14 UNDER SECTION 25(1)KVAT ACT

P4: COPY OF THE EXPLANATION DATED NIL, SUBMITTED BY THE PETITIONER

P5: COPY OF THE ASSESSMENT ORDER DATED 24/10/14

P6: COPY OF THE ORDER DATED 27/6/08

P7: COPY OF THE MODIFED ASSESSMENT ORDER DATED 6/9/08 PASSED BY THE ASSESSING AUTHORITY

P8: COPY OF THE ORDER DATED 19/7/11

P9: COPY OF THE ORDER DATED 9/2/12

P9(A): COPY OF THE ORDER DATED 9/2/12

P10: COPOY OF THE MEMORANDUM OF APPEAL

P11: COPY OF THE APPLICATION FOR STAY

P12: COPY OF THE ORDER NO.KVATA-3333/14 DATED 1/1/15

P13: COPY OF THE NOTICE DATED 22/12/14

P14: COPY OF THE JUDGMENT DATED 1/9/14 IN WPC.22437/14

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.1956 of 2015

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Dated this the 20th day of January, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P12 conditional order of stay passed by the 3rd respondent in an appeal that was preferred by the petitioner against Ext.P5 assessment order under the Kerala Value Added Tax Act, for the assessment year 2010-2011. In Ext.P12 order, the 3rd respondent has granted stay of recovery of the amounts confirmed against the petitioner by Ext.P5 assessment order on condition that the petitioner remits 30% of the outstanding demand within 21 days from the date of receipt of the said order. The petitioner relies on Ext.P14 judgment of this Court where, in respect of the assessment year 2011-2012, when confronted with a similar order passed by the 3rd respondent, this Court had modified the condition and directed the payment of 15% of the outstanding amount within a period of one month as a condition for the grant of stay of recovery of balance amount pending disposal of the appeal by the 3rd respondent appellate authority. In as much as the issue involved in the present assessment year is also the same, I am inclined to follow the directions in Ext.P14 judgment, rendered in the petitioners own case for a subsequent assessment year. Thus the writ petition is disposed by quashing Ext.P12 order and directing the 3rd respondent appellate authority to pass orders in Ext.P10 appeal, preferred by the petitioner for the assessment year 2010-2011, within a period of three months from the date of receipt of a copy of this judgment, subject to the petitioner paying 15% of the amounts confirmed against him in Ext.P5 order, within a period of one month from the date of receipt of a copy of the judgment.

2. It is made clear that recovery proceedings, for realisation of any amount due from the petitioner pursuant to Ext.P5 assessment order, shall be kept in abeyance till such time as orders are passed by the 3rd respondent as directed above. It is also made clear that, if the petitioner does not comply with the directions to pay 15% of the amounts confirmed against him by Ext.P5 order within the time granted by this Court, he shall lose the benefit of this judgment and respondents will be free to continue recovery proceedings against him.

Writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/