IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).No. 2181 of 2015 (W)

PETITIONER(S) :

RIJU SAM, AGED 29 YEARS,
S/O.LATE SAMUELKUTTY,
RESIDING AT PUTHENPURACKAL SAMY'S VILLA,
NEDUNTHARA MURI, PALLIPPAD (P.O), KARTHIKAPALLY TALUK,
ALAPPUZHA DISTRICT.

BY ADVS.SRI.R.O.MUHAMED SHEMEEM
SMT.NASEEHA BEEGUM P.S.

RESPONDENT(S) :
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1. THE DISTRICT COLLECTOR,
   COLLECTORATE, COLLECTORATE JUNCTION,
   ALAPPUZHA, PIN-688 001.

2. THE DEPUTY TAHASILDAR (RR),
   TALUK OFFICE, KARTHIKAPALLY TALUK, HARIPAD,
   ALAPPUZHA, PIN-690 516.

3. THE VILLAGE OFFICER,
   VILLAGE OFFICE, KARTHIKAPALLY TALUK,
   ALAPPUZHA, PIN-690 516.

4. THE COMMERCIAL TAX OFFICER (LUXURY TAX),
   OFFICE OF THE DEPUTY COMMISSIONER COMMERCIAL TAXES,
   MELUVALLIL BUILDINGS, KALLUPALAM, IRUMBUPALM (P.O),
   ALAPUZHA -688 011.

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

BY GOVERNMENT PLEADER SRI.SUDEESH KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 27-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

Msd.

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APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P1:	**TRUE COPY OF THE DEATH CERTIFICATE DATED 12.11.2012 ISSUED BY THE NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE IN THE NAME OF PETITIONER'S FATHER.**
EXT. P2:	**TRUE COPY OF THE REVENUE RECOVERY NOTICE ON FORM -1, DATED 23.12.2014, FOR RS.1,40,969/- ISSUED BY 2ND RESPONDENT.**
EXT. P3:	**TRUE COPY OF THE REVENUE RECOVERY NOTICE IN FORM -1, DATED 23.12.2014, FOR RS.33,422/- ISSUED BY 2ND RESPONDENT.**
EXT. P4:	**TRUE COPY OF THE REVENUE RECOVERY NOTICE IN FORM-1 DATED 23.12.2014, FOR RS.14681/- ISSUED BY 2ND RESPONDENT.**
EXT. P5:	**TRUE COPY OF THE REVENUE RECOVERY NOTICE IN FORM -1, DATED 23.12.2014, FOR RS.26,800/- ISSUED BY 2ND RESPONDENT.**
EXT. P6:	**TRUE COPY OF THE REVENUE RECOVERY NOTICE IN FORM -1, DATED 23.12.2014, FOR RS 16,504/- ISSUED BY 2ND RESPONDENT.**
EXT. P7:	**TRUE COPY OF THE REVENUE RECOVERY NOTICE IN FORM -10, DATED 23.12.2014, FOR ATTACHMENT OF LAND IN SURVEY NO. 169/1 IN TP NO. 10242, HAVING AN EXTENT OF 24.25 ARES IN HARIPAD VILLAGE, ISSUED BY 2ND RESPONDENT.**
EXT. P8:	**TRUE COPY OF THE CHALAN NO.47 DATED 28.08.2010 RS,64,000/- PAID TOWARDS COMPOUNDING FEE FOR 2006-07 BY S & S AUDITORIUM.**
EXT. P9:	**TRUE COPY OF THE CHALAN NO.46 DATED 28.08.2010, FOR RS.81,000/- PAID TOWARDS COMPOUNDING FEE FOR 2007-08 BY S & S AUDITORIUM.**
EXT. P10:	**TRUE COPY OF THE CHALAN NO.44 DATED 28.08.2010, FOR RS.1,08,000/-PAID TOWARDS COMPOUNDING FEE FOR 2008-09 BY S & S AUDITORIUM.**
EXT. P11:	**TRUE COPY OF THE CHALAN NO.43 DATED 28.08.2010, FOR RS.1,33,000/- PAID TOWARDS COMPOUNDING FEE FOR 2009-10 BY S & S AUDITORIUM.**
EXT. P12:	**TRUE COPY OF THE CHALAN NO.42 DATED 28.08.2010, FOR RS.35,000/-PAID TOWARDS COMPOUNDING FOR 2010-11 BY S & S AUDITORIUM.**
EXT. P13:	**TRUE COPY OF THE CHALAN NO.276 DATED 20.10.2010, FOR RS.63850/-PAID TOWARDS LUXURY TAX FOR 2006-07 BY S & S AUDITORIUM.**
EXT. P14:	**TRUE COPY OF THE CHALAN NO.277 DATED 20.10.2010, FOR RS.80525/-PAID TOWARDS LUXURY TAX FOR 2007-08 BY S & S AUDITORIUM.**

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EXT. P15: TRUE COPY OF THE CHALAN NO.279 DATED 20.10.2010, FOR RS.1,07,175- PAID TOWARDS LUXURY TAX FOR 2008-09 BY S & S AUDITORIUM.

EXT. P16: TRUE COPY OF THE CHALAN NO.280 DATED 20.10.2010, FOR RS.1,32,705/- PAID TOWARDS LUXURY TAX FOR 2009-10 BY S & S AUDITORIUM.

EXT. P17: TRUE COPY OF THE CHALAN NO.283 DATED 20.10.2010, FOR RS.34,125/- PAID TOWARDS LUXURY TAX FOR 2010-11 BY S & S AUDITORIUM.

EXT. P18: TRUE COPY OF THE COMMON ORDER DATED 30.05.2012 IN APPEAL NO. KVATA 497,498,499,500 AND 507 OF 2011 OF 1ST APPELLATE AUTHORITY.

EXT. P19: TRUE OF THE NOTICE RECEIVED BY THE PETITIONER ON 10.01.2015 FROM APPELLATE TRIBUNAL AT KOTTAYAM.

EXT. P20: TRUE COPY OF THE UNNUMBERED IMPLEADING APPLICATION FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.38 OF 2012 IN RESPECT OF THE ASSESSMENT YEAR 2006-07.

EXT. P20(A): TRUE COPY OF THE UNNUMBERED APPLICATION FOR SETTING ASIDE ABATEMENT FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.38 OF 2012 IN RESPECT OF THE ASSESSMENT YEAR 2006-07.

EXT. P20(B): TRUE COPY OF THE UNNUMBERED APPLICATION TO CONDONE THE DELAY IN FILING THE APPLICATION FOR SETTING ASIDE ABATEMENT FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.38 OF 2015 IN RESPECT OF THE ASSESSMENT YEAR 2006-07.

EXT. P20(C): TRUE COPY OF THE STAY PETITION FOR COLLECTION OF ARREARS FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.38 OF 2012 IN RESPECT OF THE ASSESSMENT YEAR 2006-07.

EXT. P21: TRUE COPY OF THE UNNUMBERED IMPLEADING APPLICATION FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.39 OF 2012 IN RESPECT OF THE ASSESSMENT YEAR 2007-08.

EXT. P21(A): TRUE COPY OF THE UNNUMBERED APPLICATION FOR SETTING ASIDE ABATEMENT FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.39 OF 2012 IN RESPECT OF THE ASSESSMENT YEAR 2007-08.

EXT. P21(B): TRUE COPY OF THE UNNUMBERED APPLICATION TO CONDONE THE DELAY IN FILING THE APPLICATION FOR SETTING ASIDE ABATEMENT FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.39 OF 2012 IN RESPECT OF THE ASSESSMENT YEAR 2007-08.

EXT. P21(C): TRUE COPY OF THE STAY PETITION FOR COLLECTION OF ARREARS FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.39 OF 2012 IN RESPECT OF THE ASSESSMENT YEAR 2007-08.

EXT. P22: TRUE COPY OF THE UNNUMBERED IMPLEADING APPLICATION FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.40 OF 2012 IN RESPECT OF THE ASSESSMENT YEAR 2008-09.

EXT. P22(A): TRUE COPY OF THE UNNUMBERED APPLICATION FOR SETTING ASIDE ABATEMENT FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.40 OF 2012 IN RESPECT OF THE ASSESSMENT YEAR 2008-09.

EXT. P22(B): TRUE COPY OF THE UNNUMBERED APPLICATION TO CONDONE THE DELAY IN FILING THE APPLICATION FOR SETTING ASIDE ABATEMENT FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.40 OF 2012 IN RESPECT OF THE ASSESSMENT YEAR 2008-09.

EXT. P22(C): TRUE COPY OF THE STAY PETITION FOR COLLECTION OF ARREARS FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.40 OF 2012 IN RESPECT OF THE ASSESSMENT YEAR 2008-09.

EXT. P23: TRUE COPY OF THE UNNUMBERED IMPLEADING APPLICATION FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.41 OF 2012 IN RESPECT OF THE ASSESSMENT YEAR 2009-10.

EXT. P23(A): TRUE COPY OF THE UNNUMBERED APPLICATION FOR SETTING ASIDE ABATEMENT FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.41 OF 2012 IN RESPECT OF THE ASSESSMENT YEAR 2009-10.

EXT. P23(B): TRUE COPY OF THE UNNUMBERED APPLICATION TO CONDONE THE DELAY IN FILING THE APPLICATION FOR SETTING ASIDE ABATEMENT FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.41 OF 2012 IN RESPECT OF THE ASSESSMENT YEAR 2009-10.

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EXT. P23(C): TRUE COPY OF THE STAY PETITION FOR COLLECTION OF ARREARS FILED BEFORE THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM DATED 28.01.2015 IN APPEAL T.A.NO.41 OF 2012 IN RESPECT OF THE ASSESSMENT YEAR 2009-10.

EXT. P24: TRUE COPY OF THE UNNUMBERED IMPLEADING APPLICATION FILED BEFORE THE DEPUTY COMMISSIONER (APPEALS) KOLLAM DATED 30.01.2015 IN APPEAL KVATA NO.95/2013 IN RESPECT OF THE ASSESSMENT YEAR 2010-11.

EXT. P24(A): TRUE COPY OF THE UNNUMBERED APPLICATION FOR SETTING ASIDE ABATEMENT FILED BEFORE THE DEPUTY COMMISSIONER (APPEALS) KOLLAM DATED 30.01.2015 IN APPEAL KVATA NO.95/2013 IN RESPECT OF THE ASSESSMENT YEAR 2010-11.

EXT. P24(B): TRUE COPY OF THE UNNUMBERED APPLICATION TO CONDONE THE DELAY IN FILING THE APPLICATION FOR SETTING ASIDE ABATEMENT FILED BEFORE THE DEPUTY COMMISSIONER (APPEALS) KOLLAM DATED 30.01.2015 IN APPEAL KVATA NO.95/2013 IN RESPECT OF THE ASSESSMENT YEAR 2010-11.

EXT. P24(C): TRUE COPY OF THE STAY PETITION FOR COLLECTION OF ARREARS FILED BEFORE THE DEPUTY COMMISSIONER (APPEALS) KOLLAM DATED 30.01.2015 IN APPEAL KVATA NO.95/2013 IN RESPECT OF THE ASSESSMENT YEAR 2010-11.

EXT. P25: TRUE COPY OF THE APPLICATION DATED 19.01.2015 FOR GETTING LEGAL HEIRSHIP CERTIFICATE FROM THE TAHSILDAR, KARTHIKAPALLY, IN COMPLIANCE OF RULE 28 OF KERALA VALUE ADDED TAX APPELLATE TRIBUNAL REGULATIONS.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 2181 of 2015 (W)

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Dated this the 27th day of February, 2015

JUDGMENT

Against assessment orders passed under the Kerala Tax on Luxuries Act, 1976, the petitioner has filed appeals T.A.No.38/2012, 39/2012, 40/2012 and 41/2012 for the assessment years from 2006 - 2007 to 2009 - 2010 before the Kerala Value Added Tax Appellate Tribunal.

2. It is stated that while the appeals were filed by the father of the petitioner, the father has since expired and the petitioner has taken steps to implead the legal heirs in the proceedings before the Appellate Tribunal. It is also pointed out that the following applications have been filed before the Appellate Tribunal in the pending appeals.

1. Exts.P20 to P20(C) applications in T.A.No.38/2012 (2006 - 2007)
2. Exts.P21 to P21(C) applications in T.A.No.39/2012 (2007 - 2008)
3. Exts.P22 to P22(C) applications in T.A.No.40/2012 (2008 - 2009) &
4. Exts.P23 to P23(C) applications in T.A.No.41/2012 (2009 - 2010)

2. It is the apprehension of the petitioner that, even before the said applications are considered by the Appellate Tribunal, recovery steps may be pursued against the petitioner and other legal heirs pursuant to Exts.P2 to P7 notices under the Revenue Recovery Act.

3. I have heard Sri.R.O.Muhamed Shemeem, the learned counsel for the petitioner and Sri.Sudheesh Kumar, learned Government Pleader for the respondents.

4. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I dispose the writ petition with a direction to the Kerala Value Added Tax Appellate Tribunal, Kottayam to consider and pass orders on the applications referred to above, in the pending appeals before them, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

   It is made clear that, recovery steps pursuant to Exts.P2 to P7 notices shall be kept in abeyance till such time as the Appellate Tribunal passes orders as directed and communicates the same to the petitioner. The attachment, if any, already effected shall continue during the pendency of the proceedings before the Appellate Tribunal.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/02/03/