IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

WP(C).No. 3015 of 2015 (B)

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PETITIONER(S):

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M/S. CLASSIC STEEL TRADERS,
CC NO.33/2074 M, NH BY PASS ROAD,
THAMMANAM P.O.COCHIN - 682 032,
REPRESENTED BY ITS MANAGINGPARTNER SRI.P.A.AMEER.

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT(S):

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1. COMMERCIAL TAX OFFICER
   COMMERCIAL TAXES, 2ND CIRCLE,
   KALAMASSERY AT KAKKANAD,
   COCHIN - 682 030.

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

3. INSPECTING ASSISTANT COMMISSIONER,
   COMMERCIAL TAXES, KAKKANAD,
   COCHIN -682 030.

4. COMMISSIONER OF COMMERCIAL TAXES,
   TAX TOWER, KARAMANA P.O.,
   THIRUVANANTHAPURAM - 695 033.

BY SENIOR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN.
BY ADV. SRI.JUDE PAUL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

## APPENDIX

**PETITIONER(S)' EXHIBITS :**

**EXT.P-1:** TRUE COPY OF ASSESSMENT ORDER DATED 21.10.2014 ISSUED BY THE IST RESPONDENT FOR THE YEAR 2011 - 12, U/S.25(1) OF THE KERALA VALUE ADDED TAX ACT,WITHOUT CONSIDERING THE REQUEST FOR REVISED RETURN.

**EXT.P-2:** TRUE COPY OF APPEAL DATED 27.1.2015, SUBMITTED BY THE PETITIONER BEFORE 2ND RESPONDENT, AGAINST EXT.P1 ASSESSMENT.

**EXT.P-3:** TRUE COPY OF STAY PETITION DATED 27.1.2015 SUBMITTED BY THE PETITIONER ALONG WITH EXT. P2 APPEAL, BEFORE THE 2ND RESPONDENT.

**EXT.P-4:** TRUE COPY OF AUDITORS REMARK DATED 11.12.2012 FOR RECTIFICATION OF MISTAKE BY FILING A REVISED RETURN FOR MARCH 2012 AND THE ANNUAL RETURN FOR 2012-13, ACCOMPANIED WITH AUDIT REPORT CONDUCTED U/S.42 OF THE KVAT ACT.

**EXT.P-5:** TRUE COPY OF CIRCULAR NO.12/08 DATED 26.3.2008 ISSUED BY THE 4TH RESPONDENT, WHICH IS A DIRECTION BINDING ON IST RESPONDENT FOR NOT DEMANDING CESS ON DECLARED GOODS, WHILE COMPLETING ASSESSMENTS.

**RESPONDENT(S)' EXHIBITS :**

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

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

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

**W.P.(C) No. 3015 of 2015 (B)**

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

Dated this the 30th day of January, 2015

**JUDGMENT**

Against Ext.P1 assessment order, under the Kerala Value Added Tax Act, 2003, for the assessment year 2011 - 2012, the petitioner has preferred Ext.P2 appeal along with Ext.P3 stay petition before the second respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued for recovery of the amounts confirmed by Ext.P1 assessment order.

2. I have heard Sri.Tomson T. Emmanuel, learned counsel appearing for petitioner and Smt.Sobha Annamma Eappen, learned Government Pleader appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with a direction to the second respondent to consider and pass orders on Ext.P3 stay petition, preferred by the petitioner before him, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. The order to be passed by the second respondent shall contain reasons for the decision arrived at by him.

Recovery steps, pursuant to Ext.P1 assessment order shall be kept in abeyance till such time as the second respondent passes orders, as directed, in Ext.P3 stay petition, and communicates the same to the petitioner.

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

AMV/30/01/