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. 3061 of 2015 (G)

PETITIONER(S):

M/S.NOORUL ISLAM TRUST,
AL-AZHAR CAMPUS, PEMUMPILLICHIRA P.O.,
THODUPUZHA, IDUKKI DISTRICT, PIN - 685 605,
REPRESENTEDBY ITS CHAIRMAN K.M.MOOSA.

BY ADV. SRI.MOHAMMED RAFIQ

RESPONDENT(S):
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1. THE COMMERCIAL TAX OFFICER (WC),
DEPARTMENT OF COMMERCIAL TAXES, MATTANCHERRY,
PIN - 682 002.

2. THE DEPUTY TAHSILDAR (REVENUE RECOVERY),
TALUK OFFICE, THODUPUZHA, PIN - 685 584.

3. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
COMMERCIAL TAXES DEPARTMENT, TRIVANDRUM, PIN - 695 001.

BY SENIOR GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

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

msv/

WP(C).No. 3061 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: THE TRUE COPY OF THE TRUST DEED DATED 24.2.2005.

EXT.P-2: THE TRUE COPY OF THE LETTER OF ACCEPTANCE DATED 8.3.2013 ISSUED BY THE TRUST TO M/S.CHANDRALEKHA CONSTRUCTIONS.

EXT.P-3: THE TRUE COPY OF THE NOTICE NO.32151027126/13-14 DATED 28.5.2014 ISSUED BY THE IST RESPONDENT.

EXT.P-4: THE TRUE COPY OF THE ORDER NO.32151027126/2013-14 DATED 30.6.2014 PASSED BY THE IST RESPONDENT.

EXT.P-5: THE TRUE COPY OF THE DEMAND NOTICE NO.2014/21893/6/400 DATED 5.12.2014 UNDER SECTION 7 OF THE KERALA REVENUE RECOVERY ACT, 1968 ISSUED BY THE 2ND RESPONDENT.

EXT.P-6: THE TRUE COPY OF THE ORDER NO.32151027126/2013-14 (I,II,III QUARTER) DATED 10.7.2014 PASSED BY THE IST RESPONDENT.

EXT.P-7: THE TRUE COPY OF THE JUDGEMENT DATED 6.1.2015 IN WPC NO.204 OF 2015 (A) PASSED BY THE HON'BLE HIGH COURT OF KERALA.

EXT.P-8: THE TRUE COPY OF THE JUDGMENT DATED 23.12.2014 IN WPC NO.34088 OF 2014 (I) PASSED BY THE HON'BLE HIGH COURT OF KERALA.

EXT.P-9: THE TRUE COPY OF THE RECTIFICATION APPLICATION UNDER SECTION 66 OF THE KVAT ACT, 2003 DATED 12.1.2015 FILED BY THE PETITIONER BEFORE THE IST RESPONDENT.

EXT.P-10: THE TRUE COPY OF THE NOTICE NO.32151027126/13-14 DATED 15.1.2015 ISSUED BY THE IST RESPONDENT.

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 3061 of 2015 (G)

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Dated this the 30th day of January, 2015

<u>JUDGMENT</u>

The petitioner, who is a dealer under the Kerala Value Added Tax Act, 2003, is aggrieved by Ext.P4 penalty order passed under the said Act. It is stated that, pointing out certain mistakes that had crept in Ext.P4 order, he has already preferred Ext.P9 rectification application before the 1st respondent. It is further contended that, the 1st respondent has since heard him in the rectification application and orders are yet to be passed. The grievance of the petitioner in the writ petition is that, even before orders are passed in the rectification application, steps are underway for recovery of the amounts confirmed against the petitioner by Ext.P4 order.

2. I have heard Sri.Mohammed Rafiq, learned counsel appearing for the petitioner and Smt.Sobha Annamma Eappen, learned Government Pleader appearing on behalf of the respondents.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I note that the 1st respondent has already heard the petitioner in the rectification application, and it is now for the 1st respondent to pass orders in the matter. The petitioner's present grievance is only with

regard to the recovery steps, that have been initiated against him through Ext.P5 notice, for realisation of the amounts confirmed by Ext.P4 order. Under these circumstances, I direct the 1st respondent to pass orders on Ext.P9 rectification application within a period of one month from the date of receipt of a copy of this judgment. The recovery steps pursuant to Ext.P5 shall be kept in abeyance till such time, as orders are passed by the 1st respondent and communicated to the petitioner.

I make it clear that, I have not decided on the merits of the contentions of the petitioner against Ext.P4 order of penalty, and it shall be open to the petitioner to raise all the said contentions in proceedings challenging Ext.P4 order.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/31/01/