

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

WP(C).No. 3547 of 2015 (P)

PETITIONER:

**M/S. ARCHIVES CONSTRUCTIONS PVT. LTD.,
28/3377, FIRST FLOOR, MENONS COMPLEX,
ELAMKULAM, KADAVANTHRA, KOCHI - 682 020,
REPRESENTED BY ITS MANAGING DIRECTOR SRI.T.PADMAJAN.**

**BY ADVS.SRI.ASWIN GOPAKUMAR
SRI.ANWIN GOPAKUMAR
SMT.KALA G.NAMBIAR
SRI.K.AMAL NATH NAIK
SRI.ARJUN RADHAKRISHNAN NAIR
SMT.ANUSREE SURESH
SMT.DEEPTI SUSAN GEORGE**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY (TAXES),
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES COMPLEX, PERUMANOOR,
ERNAKULAM - 682 015.**
- 3. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES DEPARTMENT,
ERNAKULAM, KOCHI - 682 030.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1:** TRUE COPY OF CERTIFICATE OF AUDIT DATED 4.8.2014 ISSUED BY AUDIT OFFICER,
- EXHIBIT P2:** TRUE COPY OF ORDER NO. 32072071904/2009-10 DATED 17.9.2014 ISSUED BY THE ASSISTANT COMMISSIONER (WC), COMMERCIAL TAXES, ERNAKULAM.
- EXHIBIT P3:** TRUE COPY OF ORDER NO. 32072071904/2010-11 DATED 17.9.2014 ISSUED BY THE ASSISTANT COMMISSIONER (WC), COMMERCIAL TAXES, ERNAKULAM.
- EXHIBIT P4:** TRUE COPY OF ORDER NO. 32072071904/2011-12 DATED 17.9.2014 ISSUED BY THE ASSISTANT COMMISSIONER (WC), COMMERCIAL TAXES, ERNAKULAM.
- EXHIBIT P5:** TRUE COPY OF ORDER NO. 32072071904/2012-13 DATED 17.9.2014 ISSUED BY THE ASSISTANT COMMISSIONER (WC), COMMERCIAL TAXES, ERNAKULAM.
- EXHIBIT P6:** TRUE COPY OF ORDER NO. 32072071904/2013-14 DATED 17.9.2014 ISSUED BY THE ASSISTANT COMMISSIONER (WC), COMMERCIAL TAXES, ERNAKULAM.
- EXHIBIT P7:** TRUE COPY OF DEMAND NOTICE UNDER SECTION 7 OF THE KERALA REVENUE RECOVERY ACT, DATED 12.11.2014 ISSUED BY THE INSPECTING ASSISTANT COMMISSIONER, COMMERCIAL TAXES, ERNAKULAM FOR PERIOD 2009-10.
- EXHIBIT P8:** TRUE COPY OF DEMAND NOTICE UNDER SECTION 7 OF THE KERALA REVENUE RECOVERY ACT, DATED 12.11.2014 ISSUED BY THE INSPECTING ASSISTANT COMMISSIONER ,COMMERCIAL TAXES ERNAKULAM FOR PERIOD 2010-11.
- EXHIBIT P9:** TRUE COPY OF DEMAND NOTICE UNDER SECTION 7 OF THE KERALA REVENUE RECOVERY ACT, DATED 12.11.2014 ISSUED BY THE INSPECTING ASSISTANT COMMISSIONER, COMMERCIAL TAXES ERNAKULAM FOR PERIOD 2011-2012.
- EXHIBIT P10:** TRUE COPY OF DEMAND NOTICE UNDER SECTION 7 OF THE KERALA REVENUE RECOVERY ACT, DATED 12.11.2014 ISSUED BY THE INSPECTING ASSISTANT COMMISSIONER, COMMERCIAL TAXES, ERNAKULAM FOR PERIOD 2012-13.
- EXHIBIT P11:** TRUE COPY OF DEMAND NOTICE UNDER SECTION 7 OF THE KERALA REVENUE RECOVERY ACT, DATED 12.11.2014 ISSUED BY THE INSPECTING ASSISTANT COMMISSIONER, COMMERCIAL TAXES, ERNAKULAM FOR PERIOD 2013-14.

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- EXHIBIT P12: TRUE COPY OF APPEAL FILED BY PETITIONER BEFORE THE DEPUTY COMMISSIONER (APPEALS) ON 1.12.2014 AGAINST ORDER NO. 32072071904/2009-10 DATED 17.9.2014.
- EXHIBIT P13: TRUE COPY OF APPEAL FILED BY PETITIONER BEFORE THE DEPUTY COMMISSIONER (APPEALS) ON 1.12.2014 AGAINST ORDER NO. 32072071904/2010-11 DATED 17.9.2014.
- EXHIBIT P14: TRUE COPY OF APPEAL FILED BY PETITIONER BEFORE THE DEPUTY COMMISSIONER (APPEALS) ON 1.12.2014 AGAINST ORDER NO. 32072071904/2011-12 DATED 17.9.2014.
- EXHIBIT P15: TRUE COPY OF APPEAL FILED BY PETITIONER BEFORE THE DEPUTY COMMISSIONER (APPEALS) ON 1.12.2014 AGAINST ORDER NO. 32072071904/2012-13 DATED 17.9.2014.
- EXHIBIT P16: TRUE COPY OF APPEAL FILED BY PETITIONER BEFORE THE DEPUTY COMMISSIONER (APPEALS) ON 1.12.2014 AGAINST ORDER NO. 32072071904/2013-14 DATED 17.9.2014.
- EXHIBIT P17: TRUE COPY OF INTERLOCUTORY APPLICATIONS FOR STAY AND EARLY HEARING FILED WITH APPEAL BEFORE THE DEPUTY COMMISSIONER (APPEALS) DATED 1.12.2014 AGAINST ORDER NO. 32072071904/2009-10.
- EXHIBIT P18: TRUE COPY OF INTERLOCUTORY APPLICATIONS FOR STAY AND EARLY HEARING FILED WITH APPEAL BEFORE THE DEPUTY COMMISSIONER (APPEALS) DATED 1.12.2014 AGAINST ORDER NO. 32072071904/2010-11.
- EXHIBIT P19: TRUE COPY OF INTERLOCUTORY APPLICATIONS FOR STAY AND EARLY HEARING FILED WITH APPEAL BEFORE THE DEPUTY COMMISSIONER (APPEALS) DATED 17.9.2014 AGAINST ORDER NO. 32072071904/2011-12.
- EXHIBIT P20: TRUE COPY OF INTERLOCUTORY APPLICATIONS FOR STAY AND EARLY HEARING FILED WITH APPEAL BEFORE THE DEPUTY COMMISSIONER (APPEALS) DATED 17.9.2014 AGAINST ORDER NO. 32072071904/2012-13.
- EXHIBIT P21: TRUE COPY OF INTERLOCUTORY APPLICATIONS FOR STAY AND EARLY HEARING FILED WITH APPEAL BEFORE THE DEPUTY COMMISSIONER (APPEALS) DATED 17.9.2014 AGAINST ORDER NO. 32072071904/2013-14.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 3547 of 2015 (P)

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Dated this the 4th day of February, 2015

JUDGMENT

Against Exts.P2 to P6 assessment orders, under the Kerala Value Added Tax Act, 2003, for the assessment years 2009 - 2010, 2010 - 2011, 2011 - 2012, 2012 - 2013 & 2013 - 2014, the petitioner has preferred Exts.P12 to P16 appeals, along with Exts.P17 to P21 stay petitions, before the 2nd respondent. It is the case of the petitioner that, even before a consideration of the stay application by the 2nd respondent, recovery steps have been initiated against him through Exts.P7 to P11 demand notices, for recovery of the amounts confirmed in the assessment order.

2. I have heard Sri.Aswin Gopakumar, learned counsel appearing for petitioner and Smt.Sobha Annamma Eappen, learned Government Pleader 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 2nd respondent to consider and pass orders on Exts.P17 to P21 stay petitions, 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 2nd respondent shall

contain reasons for the decision arrived at by him.

Recovery steps initiated through Exts.P7 to P11 demand notices shall be kept in abeyance till such time as the 2nd respondent passes orders, as directed, in Ext.P17 to P21 stay petitions, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/04/02/