IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WP(C).No.5245 of 2015 (E)

PETITIONER:

M/S.VICTORY PAPER AND BOARDS (INDIA) LTD,
POST BOX NO.36,1/281-G,VICTORY PRESS BUILDING,
KUNNAMKULAM - 680 503,THRISSUR DISTRICT,
REPRESENTED BY ITS MANAGING DIRECTOR,K.P. SAXON.

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENTS:
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1. COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES,KUNNAMKULAM,
THRISSUR DISTRICT - 680 501.

2. DEPUTY COMMISSIONER,
COMMERCIAL TAXES,MINI CIVIL STATION,
THRISSUR - 680 003.

3. ASSISTANT COMMISSIONER (APPEALS),
COMMERCIAL TAXES,MINI CIVIL STATION,
THRISSUR - 680 003.

4. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES,MINI CIVIL STATION,
THRISSUR - 680 003.

5. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES,SALES TAX COMPLEX,
THEVARA,COCHIN - 682 015.

6. STATE OF KERALA,REPRESENTED BY SECRETARY TO GOVT.,
TAXES DEPARTMENT,SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

BY GOVT. PLEADER SRI.SUDHEESH.S.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No.5245 of 2015 (E)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF CERTIFICATE DATED 24.12.2009 ISSUED BY DISTRICT LABOUR OFFICER,PALAKKAD,FOR REDUCTION IN ELECTRICITY CHARGES, DURING LOCK OUT.

EXT.P2:TRUE COPY OF LETTER DATED 14.11.2014, SUBMITTED BY THE PETITIONER BEFORE 2ND RESPONDENT FOR REVISED RETURN FACILITY FOR APRIL TO SEPTEMBER 2014, AS PER THE DIRECTION OF 1ST RESPONDENT,AFTER DISCLOSING MONTHLY WISE TAXABLE TURNOVER OF DAMAGED WASTE PAPER.

EXT.P3:TRUE COPY OF NOTICE DATED 06.01.2015,U/S.24 OF THE KVAT ACT, SERVED TO THE PETITIONER ON 14.01.2015, PROPOSING AUDIT ASSESSMENT FOR APRIL TO SEPTEMBER 2014.

EXT.P3(a):TRUE COPY OF NOTICE DATED 06.01.2015,U/S.67 OF THE KVAT ACT, SERVED TO THE PETITIONER ON 14.01.2015, PROPOSING PENALTY FOR NON-PAYMENT TAX COLLECTED DURING APRIL TO SEPTEMBER 2014.

EXT.P4:TRUE COPY OF ASSESSMENT ORDER DATED 28.01.2015 U/S.24 OF THE KVAT ACT,ISSUED TO THE PETITIONER ON 02.02.2015, BY THE 1ST RESPONDENT FOR THE PERIOD APRIL TO SEPTEMBER OF 2014, AFTER ADDING 10% TO THE SALES BILLS RAISED ON SALE OF DAMAGED WASTE PAPER, AS PROPOSED IN EXT.P3.

EXT.P4.(a):TRUE COPY OF PENALTY PROCEEDINGS DATED 28.01.2015 COMPLETED U/S.67 AND 68 OF THE KVAT ACT, BY THE 1ST RESPONDENT FOR THE PERIOD APRIL TO SEPTEMBER OF 2014.

EXT.P5:TRUE COPY OF APPEAL DATED 07.02.2015 SUBMITTED BY THE PETITIONER, AGAINST EXT.P4, BEFORE THE 3RD RESPONDENT.

EXT.P5(a):TRUE COPY OF REVISION DATED 07.02.2015 SUBMITTED BY THE PETITIONER AGAINST EXT.P4(a), BEFORE THE 2ND RESPONDENT.

EXT.P6:TRUE COPY OF STAY PETITION DATED 07.02.2015 SUBMITTED BY THE PETITIONER ALONG WITH EXT.P5 APPEAL, BEFORE THE 3RD RESPONDENT.

EXT.P6(a):TRUE COPY OF STAY PETITION DATED 07.02.2015 SUBMITTED BY THE PETITIONER, ALONG WITH EXT.P5(a) REVISION, BEFORE THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

pk P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5245 OF 2015 (E)

Dated this the 19th day of February, 2015

<u>J U D G M E N T</u>

Against Ext.P4 assessment order and Ext.P4(a) penalty order, the petitioner has preferred Ext.P5 appeal and Ext.P5(a) revision together with Ext.P6 and Ext.P6(a) stay petitions before the 3rd respondent and 2nd respondent respectively. The grievance of the petitioner is that, even before the 2nd and 3rd respondents considered the stay petitions, recovery steps have been initiated for recovery of the balance amounts confirmed against the petitioner by Exts.P4 and P4(a) orders.

2. I have heard Sri.Tomson T. Emmanuel, the learned counsel appearing for the petitioner as also Sri.Sudheesh Kumar.S., the learned Government Pleader appearing for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I dispose the writ petition with the following directions:

1. The 3rd respondent shall consider and pass orders on Ext.P6 stay petition within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. Similarly, the 2nd respondent shall consider and pass orders on Ext.P6(a) stay petition within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

2.Recovery steps for recovery of the balance amounts confirmed against petitioner by Exts.P4 and P4(a) orders shall be kept in abeyance till orders are passed by the 2nd and 3rd respondents as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp