IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 5486 of 2015 (I)

PETITIONER:

MUJEEB P., S/O HAMSA, AGED 32 YEARS,
PUTHENKUDY 12, THADIYITTAPARAMBU,
VAZHAKKULAM.

BY ADV. SMT.M.A.JINSA MOL

RESPONDENT(S):
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1. THE DEPUTY TAHASILDAR,
   (REVENUE RECOVERY) TALUK OFFICE,
   KUNNATHUNAD, PERUMBAVOOR-683 542.

2. THE COMMERCIAL TAX OFFICER IV,
   COMMERCIAL TAXES, ALUVA-683101.

3. THE COMMISSIONER
   DEPARTMENT OF COMMERCIAL TAXES,
   VIKAS BHAVAN, TRIVANDRUM-695001.

ADDL. R4 & R5 IMPLEADED

4. THE DEPUTY COMMISSIONER,
   COMMERCIAL TAXES, MATTANCHERY.

5. THE DEPUTY COMMISSIONER,
   COMMERCIAL TAXES, ERNAKULAM.

ADDL. R4 & R5 ARE SUO MOTU IMPLEADED
AS PER ORDER DATED 24.03.2015 IN WPC.

BY. GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 5486 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1: A TRUE COPY OF THE CERTIFICATE OF REGISTRATION DATED 5.3.2011 OF THOLAMKUZHI AGGREGATES UNDER SECTION 16 OF KERALA VALUE ADDED TAX RULES 2005.

EXHIBIT P2: A TRUE COPY OF DEMAND NOTICE NO.D7-1254/15 DATED 20.1.2015 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P3: A TRUE COPY OF DEMAND NOTICE NO.D7-1255/15 DATED 20.1.2015 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P4: A TRUE COPY OF INTERIM ORDER DATED 5.3.2015 IN WP(C)5486/2015 PASSED BY THIS HONOURABLE COURT IN THE ABOVE WRIT PETITION.

EXHIBIT P5: A TRUE COPY OF RECEIPT DATED 12.3.2015 RECEIVED BY THE PETITIONER, WHILE DEPOSITING THE AMOUNT AS PER THE DIRECTIONS OF THIS HONOURABLE COURT.

EXHIBIT P6: A TRUE COPY OF APPLICATION DATED 9.3.2015 BEFORE THE 2ND RESPONDENT.

EXHIBIT P7: A TRUE COPY OF REVISION PETITION FILED BEFORE THE DEPUTY COMMISSIONER, MATTANCHERY AGAINST THE PENALTY ORDER FOR NON-FILING OF RETURNS.

EXT. P7(A): A TRUE COPY OF REVISION PETITION FILED BEFORE THE DEPUTY COMMISSIONER, MATTANCHERY AGAINST THE PENALTY ORDER FOR NON-PAYMENT OF ADMITTED TAX AND NON-FILING OF RETURNS.

EXT. P7(B): A TRUE COPY OF REVISION PETITION FILED BEFORE THE DEPUTY COMMISSIONER, ERNAKULAM AGAINST THE PENALTY ORDER FOR NON- FILING OF RETURNS AND NON- PAYMENT OF COMPOUNDED TAX.

EXHIBIT P8: A TRUE COPY OF STAY PETITION ALONG WITH THE EARLY HEARING PETITION FILED IN THE REVISION PETITION BEFORE THE DEPUTY COMMISSIONER, MATTANCHERY AGAINST THE PENALTY ORDER FOR NON-FILING OF RETURNS.

EXT. P8(A): A TRUE COPY OF STAY PETITION ALONG WITH THE EARLY HEARING PETITION FILED IN THE REVISION PETITION BEFORE THE DEPUTY COMMISSIONER, MATTANCHERY AGAINST THE PENALTY ORDER FOR NON-PAYMENT OF ADMITTED TAX AND NON-FILING OF RETURNS.

EXT. P8(B): A TRUE COPY OF STAY PETITION ALONG WITH THE EARLY HEARING PETITION FILED IN THE REVISION PETITION BEFORE THE DEPUTY COMMISSIONER, ERNAKULAM AGAINST THE PENALTY ORDER FOR NON- FILING OF RETURNS AND NON- PAYMENT OF COMPOUNDED TAX.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.5486 of 2015

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Dated this the 24th day of March, 2015

J U D G M E N T

Against the orders confirming a demand of penalty on the petitioner under the Kerala Value Added Tax Act, the petitioner has preferred Exts.P7 and P7 (a) revision petitions before the additional 4th respondent, and Exts.P7 (b) revision petition before the additional 5th respondent. Along with the said revision petitions, the petitioner also preferred Exts.P8, P8(a) and P8 (b) Stay petitions before the said respondents. The apprehension of the petitioner is that, even before considering the stay petitions, recovery steps will be pursued against the petitioner for recovery of the amounts confirmed against the petitioner by the penalty orders.

2. I have heard the learned counsel for the petitioner and also the learned Government Pleader 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:

i. The additional 4th and 5th respondents shall consider and pass orders on the stay petitions within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. While considering the stay petitions, the said respondents shall also look into the aspect of delay, if any, in filing the revision petitions.

ii. Taking note of the fact that the petitioner has paid an amount of Rs.50,000/- to the respondents, pursuant to the direction of this Court dated 05.03.2015, the recovery proceedings for recovery of the amounts confirmed against the petitioner by the penalty orders, shall be kept in abeyance till such time as orders are passed by the respondents as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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