IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 6934 of 2015 (N)

PETITIONER :

DARSHAN ARJUNLAL TALREJA, AGED 46 YEARS,
PROPRIETOR, M/S. DEEP TRADERS, MUTTOM,
KASARAGOD.

BY ADV. SRI.RAJESH NAMBIAR

RESPONDENTS :

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1. COMMERCIAL TAX OFFICER
   KASARAGOD - 672002

2. VILLAGE OFFICER
   PANAPPUZH VILLAGE, KANNUR, PIN 690002.

3. SPL. DEPUTY TAHSILDAR
   (REVENUE RECOVERY), KANNUR, PIN 670001.

R1 TO R3 BY SENIOR GOVERNMENT PLEADER
SMT. SHOBA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 6934 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE PRE-ASSESSMENT NOTICE FOR THE YEAR 2011-12 DATED 1-02-2013.

EXHIBIT P2: TRUE COPY OF THE REPLY DATED 22-02-2013.

EXHIBIT P3: TRUE COPY OF THE PETITION DATED 26-02-2015 FOR ISSUANCE OF CERTIFIED COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2011-12.

EXHIBIT P4: TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 01-01-2015.

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. 6934 of 2015 (N)

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Dated this the 11th day of March, 2015

JUDGMENT

The petitioner, who is a dealer under the Kerala Value Added Tax Act, 2003, has approached this Court challenging Ext.P4 revenue recovery notice, that was served on him, in connection with recovery of sales tax dues. The case of the petitioner in the writ petition is that, he was never served with the assessment order, pursuant to which, the recovery steps were taken against him.

2. The learned Government Pleader on instructions would submit that, the order against the petitioner for the assessment year 2011 – 2012 was passed on 12.03.2013, and the order, although sent to the petitioner, was returned unserved on 03.04.2013. It was noticed that, there was no person residing in the address of the petitioner, as shown in the files with the commercial tax department.

3. The learned counsel for the petitioner would submit that, he requires only some time to obtain a certified copy of the order passed against him, and in respect of which he has already preferred Ext.P3 application before the 1st respondent, so that he can pursue his appellate remedy under the KVAT Act against the said order.

4. I have heard Sri.Rajesh Nambiar, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

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

   i. The 1st respondent shall consider Ext.P3 application submitted by the petitioner before him, and issue a certified copy of the order dated 12.03.2013 forthwith to the petitioner

   ii. The stay against revenue recovery proceedings, that was granted by this Court on 05.03.2015, shall continue to be in force till 31.03.2015 so as to enable the petitioner to pursue his alternate remedies under the KVAT Act against the order dated 12.03.2013 passed against him.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/12/03/