IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No.7416 of 2015 (B)

PETITIONER:

JACOB MATHEW,PROPRIETOR,
HOTEL ROYAL GARDENS,NANGIEKULANGARA,
HARIPAD

BY ADV.SRI.A.KRISHNAN

RESPONDENTS:
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1. **THE COMMERCIAL TAX OFFICER,HARIPAD-690 514.**

2. **THE DEPUTY COMMISSIONER,(APPEALS) II,**
   COMMERCIAL TAXES,KOLLAM-691001.

3. **THE DEPUTY THASILDAR (RVENUE RECOVERY),**
   TALUK OFFICE,KARTHIKAPILLY-690 516.

4. **THE STATE OF KERALA,REPRESENTED BY**
   THE SECRETARY,REVENUE DEPARTMENT,
   TRIVANDRUM-695001.

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1(a):TRUE COPY OF THE ASSESSMENT ORDER FOR OCTOBER AND NOVEMBER 2013.

EXT.P1(b):TRUE COPY OF THE ASSESSMENT ORDER FOR DECEMBER 2013 & JANUARY 2014.

EXT.P1(c):TRUE COPY OF THE ASSESSMENT ORDER FOR FEBRUARY,2014.

EXT.P1(d):TRUE COPY OF THE ASSESSMENT ORDER FOR MARCH,2014.

EXT.P1(e):TRUE COPY OF THE ASSESSMENT ORDER FOR APRIL,2014.

EXT.P1(f):TRUE COPY OF THE ASSESSMENT ORDER FOR MAY,2014.

EXT.P2(a):TRUE COPY OF THE DEMAND NOTICE FOR OCTOBER AND NOVEMBER,2013.

EXT.P2(b):TRUE COPY OF THE DEMAND NOTICE FOR DECEMBER 2013 & JANUARY,2014.

EXT.P2(c):TRUE COPY OF THE DEMAND NOTICE FOR FEBRUARY,2014.

EXT.P2(d):TRUE COPY OF THE DEMAND NOTICE FOR MARCH 2014.

EXT.P2(e):TRUE COPY OF THE DEMAND NOTICE FOR APRIL,2014.

EXT.P2(f):TRUE COPY OF THE DEMAND NOTICE FOR MAY,2014.

EXT.P3(a):TRUE COPY OF APPEAL AGAINST ASSESSMENT ORDER FOR OCTOBER & NOVEMBER 2013.

EXT.P3(b):TRUE COPY OF APPEAL AGAINST ASSESSMENT ORDER FOR DECEMBER 2013 & JANUARY,2014.

EXT.P3(c):TRUE COPY OF APPEAL AGAINST ASSESSMENT ORDER FOR FEBRUARY,2014.

EXT.P3(d):TRUE COPY OF APPEAL AGAINST ASSESSMENT ORDER FOR MARCH, 2014.

EXT.P3(e):TRUE COPY OF APPEAL AGAINST ASSESSMENT ORDER FOR APRIL 2014.

EXT.P3(f):TRUE COPY OF APPEAL AGAINST ASSESSMENT ORDER FOR MAY, 2014.

EXT.P4:TRUE COPY OF STAY ORDER PASSED IN EXT.P3(a) TO P3(f).

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EXT.P5(a):TRUE COPY OF PETITION FOR EARLY HEARING OF EXT.P3(a) APPEAL.

EXT.P5(b):TRUE COPY OF PETITION FOR EARLY HEARING OF ET.P3(b) APPEAL.

EXT.P5(c):TRUE COPY OF PETITION FOR EARLY HEARING OF EXT.P3(c) APPEAL.

EXT.P5(d):TRUE COPY OF PETITION FOR EARLY HEARING OF EXT.P3(d) APPEAL.

EXT.P5(e):TRUE COPY OF PETITION FOR EARLY HEARING OF EXT.P3 (e) APPEAL.

EXT.P5(f):TRUE COPY OF PETITION FOR EARLY HEARING OF EXT.P3(f) APPEAL.

EXT.P6(a):TRUE COPY OF DEMAND NOTICE UNDER THE REVENUE RECOVERY ACT.

EXT.P6(b):TRUE COPY OF DEMAND NOTICE UNDER THE REVENUE RECOVERY ACT.

EXT.P7:TRUE COPY OF SALE NOTICE UNDER THE REVENUE RECOVERY ACT.

EXT.P8(a):TRUE COPY OF THE RETURN FOR OCTOBER 2013.

EXT.P8(b):TRUE COPY OF THE RETURN FOR NOVEMBER 2013.

EXT.P8(c):TRUE COPY OF THE RETURN FOR DECEMBER, 2013.

EXT.P8(d):TRUE COPY OF THE RETURN FOR JANUARY,2014.

EXT.P8(e):TRUE COPY OF THE RETURN FOR FEBRUARY,2014.

EXT.P8(f):TRUE COPY OF THE RETURN FOR MARCH,2014.

EXT.P8(g):TRUE COPY OF THE RETURN FOR APRIL,2014.

EXT.P8(h):TRUE COPY OF THE RETURN FOR MAY,2014.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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Dated this the 10th day of March, 2015

JUDGMENT

The petitioner, against whom the assessments under the Kerala Value Added Tax Act, 2003, for the period from October, 2013 to May, 2015 were completed by Ext.P1 series of assessment orders, filed appeals against the said assessment orders before the 2nd respondent appellate authority. By Ext.P4 order passed by the appellate authority in the stay petitions that were filed by the petitioner along with the appeals, the 2nd respondent directed the petitioner to pay 30% of the amounts confirmed against him by the assessment orders as a condition for the grant of stay against recovery of the balance amounts confirmed against him.

2. In the writ petition, the petitioner does not impugn Ext.P4 order of the appellate authority. The petitioner, however, points out that, he had subsequent to the passing of Ext.P1 series of assessment orders, filed the necessary returns for the period in question, and also paid admitted tax as per the returns totalling approximately Rs.35,49,000/- by way of tax to the respondents. The prayer of the petitioner in the writ petition is that, the appellate authority be directed to dispose the appeals filed by him on merits without insisting on payment of any further amounts. The petitioner also impugns the recovery steps

initiated against him by the respondents for recovery of the tax amounts confirmed by Ext.P1 series of assessment orders.

3. I have heard Sri. A.Krishnan, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

4. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find that, while the petitioner has not, in compliance with Ext.P4 order, deposited any tax amount, he has, pursuant to filing of the returns for the period in question, paid an amount of approximately Rs.35,49,000/-, which is more than the 30% that was directed to be paid by him by the appellate authority, in Ext.P4 order. In that view of the matter, therefore, I feel that the interests of justice will be served by directing the 2nd respondent appellate authority to consider and pass orders on Ext.P3 series of appeals filed by the petitioner, against Ext.P1 series of orders, within a stipulated time. Thus, this writ petition is disposed with the following directions:

   i. The 2nd respondent shall consider and pass orders on Ext.P3 series of appeals preferred by the petitioner, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. The recovery steps initiated against the petitioner for recovery of the balance amounts of tax confirmed against him by Ext.P1 series of assessment orders shall be kept in abeyance till such time as orders are passed by the 2nd respondent, as directed above, and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/11/03/