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. 7745 OF 2015 (P)

PETITIONER(S):

M/S. SEEMAS WEDDING COLLECTIONS
N.H.BYE PASS ROAD, ALUVA
REPRESENTED BY ITS MANAGING PARTNER MR.K.P.KUNHUMAHAMMED.

BY ADV. SMT.K.LATHA

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT OF KERALA
SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2. THE ASSISTANT COMMISSIONER
DEPARTMENT OF COMMERCIAL TAXES, SPECIAL CIRCLE
MATTANCHERRY AT ALUVA, ERNAKULAM-682 002.

3. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, ERNAKULAM-682 018.

4. INSPECTING ASSISTANT COMMISSIONER
COMMERCIAL TAXES, KAKKANAD, ERNAKULAM-682 030.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

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

WP(C).NO. 7745 OF 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1. THE TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2009-2010 DATED 31/8/2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER

EXT.P2.THE TRUE COPY OF THE APPEAL IN FORM NO.29 AND GROUNDS OF APPEAL FILED BY THE PETITIONER AGAINST THE P1 ASSESSMENT ORDER FOR THE YEAR 2009-2010.

EXT.P3. THE TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 20/2/2015 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER

EXT.P4. THE TRUE COPY OF THE STAY ORDER NO.KVATA 258/2015 DATED 23/2/2015 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER

EXT.P5. THE TRUE COPY OF THE RECONCILIATION STATEMENT FOR THE YEAR 2009-2010 ISSUED BY THE PETITIONER EXPLAINING ABOUT THE PURCHASE TURNOVER.

EXT.P6. THE TRUE COPY OF THE RECONCILIATION STATEMENT FOR THE YEAR 2009-2010 ISSUED BY THE PETITIONER EXPLAINING ABOUT THE PURCHASE TURNOVER.

RESPONDENT(S)' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.7745 of 2015

....

Dated this the 11th day of March, 2015

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

The challenge in the writ petition is against Ext.P4 conditional order of stay passed by the 3rd respondent, in a stay petition filed along with an appeal against Ext.P1 assessment order for the assessment year 2009-2010. In the writ petition, the contention of the petitioner is that, while passing Ext.P4 order, the 3rd respondent has acted in a mechanical manner and the discretion vested him was not validly exercised.

2. I have heard the learned counsel for the petitioner and 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 find that in Ext.P4 order, the 3rd respondent has taken note of the contentions of the petitioner and given reasons as to why the differential tax was sought to be levied on the petitioner. In that view of the matter, I do not see any irregularity in the exercise of discretion by the 3rd respondent. I, therefore, do not see the necessity to

interfere with Ext.P4 order in these proceedings under Article 226 of Constitution of India.

Resultantly, the writ petition in its challenge against Ext.P4 order fails and is accordingly dismissed.

Counsel for the petitioner would pray for some time to comply with the directions in Ext.P4 order. Taking note of the plea of financial hardship urged on behalf of the petitioner, I extend the time for compliance with the directions in Ext.P4 order till 31.03.2015. Save for this modification with regard to extension of time, the writ petition in its challenge against Ext.P4 order is otherwise dismissed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns