IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 8082 of 2015 (I)

PETITIONER(S):

ALEX CYRIAC, S/O.P.C.KURIAKOSE, PARTNER,
PERUMALIL GRANITES, AGED 49 YEARS,
ARUNOOTTIMANGALAM, KOTTAYAM DISTRICT.

BY ADVS.SRI.RAJU K.MATHEWS
SRI.SEBASTIAN JOSEPH (KURISUMMOOTTIL)

RESPONDENT(S):
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1. THE DISTRICT COLLECTOR, KOTTAYAM - 686 001.

2. THE DEPUTY TAHSILDAR (RR), VAIKOM,
KOTTAYAM DISTRICT - 686 101.

3. THE COMMERCIAL TAX OFFICER, VAIKOM,
KOTTAYAM DISTRICT -686 101.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

MJS

WP(C).No. 8082 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

P1- **TRUE COPY OF THE PROCEEDINGS DATED 1.11.2014 OF THE COMMERCIAL TAX OFFICER, VAIKOM.**

P2- **TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 3RD RESPONDENT IN FORM NO.12.**

P3- **TRUE COPY OF NOTICE ISSUED UNDER SEC. 31 OF THE KVAT ACT ON 16.1.2015.**

P4- **TRUE COPY OF THE CHALAN RECEIPT DATED 22.1.2015.**

P5- **TRUE COPY OF THE DEMAND NOTICE DATED 13.2.2015 SERVED UPON THE PETITIONER.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S. TO JUDGE

MJS

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No.8082 of 2015 (I)

...

Dated this the 20th day of March, 2015

JUDGMENT

The petitioner challenges Ext.P1 order, that was passed by the 3rd respondent under the Kerala Value Added Tax Act, 2003 [for short, 'KVAT Act'].

2. The challenge in the writ petition, against Ext.P1 order is that, the said order was passed imposing an exorbitant penalty on the petitioner, despite the fact that the petitioner had remitted the compounded tax amount, albeit with a marginal delay.

3. When the matter was taken up for admission, it was pointed out by the learned Government Pleader on instructions that, against Ext.P1 order of the 3rd respondent, the petitioner has already filed an appeal before the revisional authority namely, the Deputy Commissioner, Commercial Taxes, Kottayam. In that view of the matter, the present writ petition challenging Ext.P1 order cannot be maintained by the petitioner.

4. Resultantly, the writ petition, in its challenge against Ext.P1 order is dismissed, leaving it open to the petitioner to pursue his remedy against Ext.P1 order in the appeal that he has already filed before the revisional authority under the KVAT Act.

The interim order granted by this Court on 13.03.2015, shall continue to be in force for a period of two weeks, so as to enable the petitioner to move a stay petition before the revisional authority in the meanwhile.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/20/03/