IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No. 8219 of 2015 (B)

PETITIONER(S):

NAJEEB C.,
M/S. NAJEEB ASSOCIATES,
ARCHITECT, NAWAFF BUNGLOW,
MAHAKAVI BHARAT GAR ROAD,
KOCHI-682 035.

BY ADV. SRI.K.B.PRADEEP.

RESPONDENT(S):

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1. STATE OF KERALA,
   REPRESENTED BY ITS PRINCIPAL SECRETARY TO TAXES,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2. ASSISTANT COMMISSIONER (WORKS CONTRACT),
   DEPARTMENT OF COMMERCIAL TAXES,
   ERNAKULAM-682 016.

3. TAHSILDAR (R.R.),
   KANAYANNUR TALUK, TALUK OFFICE, KANAYANNUR,
   ERNAKULAM-682 011.

BY SENIOR GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P1.	**TRUE COPY OF THE ASSESSMENT ORDER NO. NC/CR/1999-2000 DATED 31/08/2010 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER FOR THE YEAR 1999-2000.**
EXT.P1(A).	**TRUE COPY OF THE ASSESSMENT ORDER NO. NC/CR/2000-2001 DATED 31/08/2010 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER FOR THE YEAR 2000-2001.**
EXT.P1(B).	**TRUE COPY OF THE ASSESSMENT ORDER NO. NC/CR/2001-2002 DATED 31/08/2010 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER FOR THE YEAR 2001-2002.**
EXT.P2.	**TRUE COPY OF THE COMMON ORDER DATED 21/06/2011 IN STA NOS.70/11, 71/11 & 72/11 OF THE DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, ERNAKULAM.**
EXT.P3.	**TRUE COPY OF THE MEMORANDUM OF APPEAL DATED 02/11/2011 IN TA NO.76/2011 FILED AND PENDING BEFORE THE SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH AT ERNAKULAM FOR THE ASSESSMENT YEAR 1999-2000.**
EXT.P3(A).	**TRUE COPY OF THE MEMORANDUM OF APPEAL DATED 02/11/2011 IN TA NO.77/2011 FILED AND PENDING BEFORE THE SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH AT ERNAKULAM FOR THE ASSWESSMENT YEAR 2000-2001.**
EXT.P3(B).	**TRUE COPY OF THE MEMORANDUM OF APPEAL DATED 02/11/2011 IN TA NO.78/2011 FILED AND PENDING BEFORE THE SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH AT ERNAKULAM FOR THE ASSWESSMENT YEAR 2001-2002.**
EXT.P4.	**TRUE COPY OF THE NOTICE NO.E6 18/09-10 DATED 26/02/2015 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.**
EXT.P5.	**TRUE COPY OF THE STAY APPLICATION DATED 10/03/2015 FILED IN TA NO.76/2011 FILED AND PENDING BEFORE THE SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH AT ERNAKULAM FOR THE ASSESSMENT YEAR 1999-2000.**
EXT.P5(A).	**TRUE COPY OF THE STAY APPLICATION DATED 10/03/2015 FILED IN TA NO.77/2011 FILED AND PENDING BEFORE THE SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH AT ERNAKULAM FOR THE ASSESSMENT YEAR 2000-2001.**
EXT.P5(B).	**TRUE COPY OF THE STAY APPLICATION DATED 10/03/2015 FILED IN TA NO.78/2011 FILED AND PENDING BEFORE THE SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH AT ERNAKULAM FOR THE ASSESSMENT YEAR 2001-2002.**

RESPONDENT(S)' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 8219 of 2015 (B)

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Dated this the 17th day of March, 2015

JUDGMENT

Against Ext. P2 series of first appellate orders under the Kerala General Sales Tax Rules, 1963, the petitioner has preferred Ext.P3 series of appeals and Ext.P5 series of stay petitions before the Sales Tax Appellate Tribunal. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued for recovery of the amounts confirmed by Ext.P2 series of first appellate orders.

2. Heard Sri.K.P.Pradeep, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, 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 a direction to the Sales Tax Appellate Tribunal to consider and pass orders on Ext.P5 series of stay petitions within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. The order to be passed by the Tribunal shall contain reasons for the decision arrived at by it.

Recovery steps for recovery of amounts confirmed against the petitioner by Ext.P1 series of first appellate orders, shall be kept in abeyance, till orders are passed by the Sales Tax Appellate Tribunal, as directed above, and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/18/03/