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. 8278 of 2015 (H)

PETITIONER(S):

M/S.ANNA ALUMINIUM VESSELS,
KIZHAKKAMBALAM, ALUVA,
REPRESENTED BY PARTNER.

BY ADVS.SRI.ANIL D. NAIR
SRI.R.SREEJITH
SMT.C.S.SULEKHA BEEVI
SMT.ROSIE ATHULYA JOSEPH

RESPONDENT(S):
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1. **ASSISTANT COMMISSIONER,**
   COMMERCIAL TAXES, SPECIAL CIRCLE,
   PERUMBAVOOR - 683 542.

2. **THE DEPUTY COMMISSIONER (APPEALS),**
   ERNAKULAM - 682 030.

3. **THE STATE OF KERALA, REPRESENTED BY ITS**
   SECRETARY (TAXES), THIRUVANANTHAPURAM - 695 001.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

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

msv/

WP(C).No. 8278 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE ASSESSMENT ORDER DTD.30.10.2014 FOR THE MONTH MAY (2014 - 15) ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.

EXT.P2: TRUE COPY OF THE ASSESSMENT ORDER DTD.24.11.2014 FOR THE MONTH JUNE (2014 - 15) ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.

EXT.P3: TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P4: TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P5: TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P6: TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P7: TRUE COPY OF THE DELAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P8: TRUE COPY OF THE DELAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P9: TRUE COPY OF THE ORDER NO.KVAT 3068/2014 DTD.31.12.2014 ISSUED TO THE PETITIONER.

EXT.P10: TRUE COPY OF THE ORDER NO.277/2015 DTD.25.2.2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P10(a): TRUE COPY OF THE ORDER NO.278/2015 DATED 25.2.2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 8278 of 2015 (H)

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Dated this the 17th day of March, 2015

JUDGMENT

The challenge in the writ petition is against Exts.P10 and P10(a) orders passed by the 2nd respondent, dismissing the stay petitions preferred by the petitioner, in appeals filed against the assessment orders confirming a demand of turnover tax on textiles, in accordance with Section 6A of the KVAT Act. It is the case of the petitioner that, if the 2nd respondent was dismissing the stay petitions, by going into the merits of the issue, then nothing prevented the 2nd respondent from disposing the appeals itself, and in that event, the petitioner would have had a right of second appeal against the decision of the 2nd respondent.

2. I have heard Sri.Anil D. Nair, the learned counsel appearing for the petitioner as also Smt.Sobha Annamma Eappen, the learned Government Pleader appearing 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 inasmuch as the 2nd respondent has chosen to dismiss the stay petitions filed by the petitioner, the 2nd respondent ought to have proceeded to hear the appeals itself on an early date, rather than insist on a deposit of tax pending disposal of the appeal pursuant

to a dismissal of the stay petition. In that view of the matter, I feel that the 2nd respondent should be directed to hear the appeals expeditiously. Accordingly, I dispose the writ petition with a direction to the 2nd respondent to consider and pass orders in the appeals preferred by the petitioner, against the orders confirming the demand of turnover tax under Section 6A of the KVAT Act. The 2nd respondent shall consider and pass orders in the appeal within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. I make it clear that recovery steps for recovery of the amounts confirmed against the petitioner, by the assessment orders in question, shall be kept in abeyance subject to the petitioner remitting 30% of the amounts confirmed against him by the assessment orders, on or before 31.3.2015.

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/17/03/