IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 9165 of 2015 (U)

PETITIONER(S) :

PRISTINE ISLE RESORTS, KOVILAKOM,
KODAMTHURUTHU, KUTHIATHODE, ALAPPUZHA DISTRICT,
REPRESENTED BY ITS AUTHORISED SIGNATORY DIRECTOR
(SALES AND OPERATIONS) SRI.ABDUL AZEEZ.

BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR

RESPONDENT(S) :
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1. COMMERCIAL TAX OFFICER (LUXURY TAX),
   MELUVALLIL BUILDINGS, KALLUPALAM, ALAPPUZHA, PIN-688 004.

2. THE INTELLIGENCE OFFICER,
   SQUAD NO.III, COMMERCIAL TAXES, MELUVALLIL BUILDINGS,
   KALLUPALAM, ALAPPUZHA, PIN-688 004.

3. THE DEPUTY COMMISSIONER (APPEALS),
   COMMERCIAL TAXES, ASRAMOM, KOLLAM-691 002.

4. THE DEPUTY TAHSILDAR (RR),
   TALUK OFFICE, CHERTHALA, ALAPPUZHA DISTRICT-688 007.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

Msd.

WP(C).No. 9165 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: COPY OF PENALTY ORDER DATED 31-03-2014 ISSUED BY THE 2ND RESPONDENT FOR THE YEAR 2011-2012.

EXT.P1(A): COPY OF PENALTY ORDER DATED 31-03-2014 ISSUED BY THE 2ND RESPONDENT FOR THE YEAR 2012-2013.

EXT.P1(B): COPY OF PENALTY ORDER DATED 31-03-2014 ISSUED BY THE 2ND RESPONDENT FOR THE YEAR 2013-2014.

EXT.P2 : COPY OF ASSESSMENT ORDER DATED 02-06-2014 ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2005-2006.

EXT.P2(A): COPY OF ASSESSMENT ORDER DATED 02-06-2014 ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2007-2008.

EXT.P2(B): COPY OF ASSESSMENT ORDER DATED 30-03-2014 ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2008-2009.

EXT.P2(C): COPY OF ASSESSMENT ORDER DATED 30-03-2014 ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2009-2010.

EXT.P2(D): COPY OF ASSESSMENT ORDER DATED 01-12-2014 ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2011-2012.

EXT.P2(E): COPY OF ASSESSMENT ORDER DATED 01-12-2014 ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2012-2013.

EXT.P2(F): COPY OF ASSESSMENT ORDER DATED 01-12-2014 ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2013-2014.

EXT.P2(G): COPY OF ASSESSMENT ORDER DATED 08-12-2014 ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2014-2015.

EXT.P3: COPY OF APPEAL MEMORANDUM AGAINST EXT.P1.

EXT.P3(A): COPY OF APPEAL MEMORANDUM AGAINST EXT.P1(A).

EXT.P3(B): COPY OF APPEAL MEMORANDUM AGAINST EXT.P1(B).

EXT.P3(C): COPY OF APPEAL MEMORANDUM AGAINST EXT.P2.

EXT.P3(D): COPY OF APPEAL MEMORANDUM AGAINST EXT.P2(A).

EXT.P3(E): COPY OF APPEAL MEMORANDUM AGAINST EXT.P2(B).

EXT.P3(F): COPY OF APPEAL MEMORANDUM AGAINST EXT.P2(C).

EXT.P3(G): COPY OF APPEAL MEMORANDUM AGAINST EXT.P2(D).

EXT.P3(H): COPY OF APPEAL MEMORANDUM AGAINST EXT.P2(E).

EXT.P3(I): COPY OF APPEAL MEMORANDUM AGAINST EXT.P2(F).

EXT.P3(J): COPY OF APPEAL MEMORANDUM AGAINST EXT.P2(G).

EXT.P4: COPY OF STAY PETITION FILED IN EXT.P3 APPEAL.

EXT.P4(A): COPY OF STAY PETITION FILED IN EXT.P3(A) APPEAL.

EXT.P4(B): COPY OF STAY PETITION FILED IN EXT.P3(B) APPEAL.

EXT.P4(C): COPY OF STAY PETITION FILED IN EXT.P3(C) APPEAL.

EXT.P4(D): COPY OF STAY PETITION FILED IN EXT.P3(D) APPEAL.

EXT.P4(E): COPY OF STAY PETITION FILED IN EXT.P3(E) APPEAL.

EXT.P4(F): COPY OF STAY PETITION FILED IN EXT.P3(F) APPEAL.

EXT.P4(G): COPY OF STAY PETITION FILED IN EXT.P3(G) APPEAL.

EXT.P4(H): COPY OF STAY PETITION FILED IN EXT.P3(H) APPEAL.

EXT.P4(I): COPY OF STAY PETITION FILED IN EXT.P3(I) APPEAL.

EXT.P4(J): COPY OF STAY PETITION FILED IN EXT.P3(J) APPEAL.

EXT.P5: COPY OF THE NOTICE DATED 26.08.2014 ISSUED BY THE 4TH RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT.P1.

EXT.P5(A): COPY OF THE NOTICE DATED 26-08-2014 ISSUED BY THE 4TH RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT.P1(A)

EXT.P5(B): COPY OF THE NOTICE DATED 26-08-2014 ISSUED BY THE 4TH RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT.P1(B)

EXT.P5(C): COPY OF THE NOTICE DATED 26-08-2014 ISSUED BY THE 4TH RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT.P2.

EXT.P5(D): COPY OF THE NOTICE DATED 29-01-2015 ISSUED BY THE 4TH RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT.P2(A)

EXT.P5(E): COPY OF THE NOTICE DATED 29-01-2015 ISSUED BY THE 4TH RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT.P2(B)

EXT.P5(F): COPY OF THE NOTICE DATED 29.01.2015 ISSUED BY THE 4TH RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT.P2(C)

EXT.P5(G): COPY OF NOTICE DATED 12.02.2015 ISSUED BY THE 4TH RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT.P2(D)

EXT.P5(H): COPY OF NOTICE DATED 12-02-2015 ISSUED BY THE 4TH RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT.P2(E)

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EXT.P5(I): **COPY OF NOTICE DATED 12-02-2015 ISSUED BY THE 4TH RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT.P2(F)**

EXT.P5(J): **COPY OF NOTICE DATED 12-02-2015 ISSUED BY THE 4TH RESPONDENT UNDER THE RR ACT IN RESPECT OF EXT.P2(G)**

RESPONDENT(S)' EXHIBITS
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 9165 of 2015

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Dated this the 23rd day of March, 2015

JUDGMENT

The petitioner is an assessee under the Kerala Tax on Luxuries Act, 1976. Against Ext.P1 series of penalty orders and Ext.P2 series of assessment orders, the petitioner had preferred Ext.P3 series of appeals before the 3rd respondent. Along with the appeals, the petitioner had also preferred Ext.P4 series of stay petitions. It is the case of the petitioner that even prior to considering the stay petitions, recovery steps are sought to be pursued through Ext.P5 series of revenue recovery notices for recovery of the amounts confirmed by Ext.P1 series of penalty orders and Ext.P2 series of assessment orders.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

4. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ petition with the following directions:-

(i) The 3rd respondent shall consider and pass orders on Ext.P4 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.

(ii) Recovery steps for recovery of amounts confirmed against the petitioner by Ext.P1 series of penalty orders and Ext.P2 series of assessment orders shall be kept in abeyance till orders are passed by the 3rd respondent as directed above and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das