IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

WP(C).No. 9652 of 2015 (F)
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PETITIONER(S) :

USMAN, AGED 38 YEARS,
PROPRIETOR, M/S.VARSH MARKETING, ANAS COMPLEX,
ANTHODE P.O, CHAVAKKAD, TRISSUR DISTRICT - 680 307.

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT(S) :
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1. **COMMERCIAL TAX OFFICER,**
   COMMERCIAL TAXES, CHAVAKKAD,
   THRISSUR DISTRICT - 680 307.

2. **DEPUTY COMMISSIONER,**
   COMMERCIAL TAXES, COMMERCIAL TAXES COMPLEX,
   THRISSUR- 680 001.

3. **ASSISTANT COMMISSIONER (APPEALS),**
   COMMERCIAL TAXES, COMMERCIAL TAX COMPLEX,
   THRISSUR- 680 001.

4. **DEPUTY TAHSILDAR (REVENUE RECOVERY),**
   TALUK OFFICE, CHAVAKKAD, THRISSUR DISTRICT - 680 307.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 9652 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: TRUE COPY OF ORDER OF PENALTY U/S.67 OF THE KVAT ACT DATED 16/09/2014 COMPLETED BY THE 1ST RESPONDENT FOR THE PERIOD JULY TO DECEMBER OF 2013.

P1(A): TRUE COPY OF ORDER OF PENALTY U/S.67 OF THE KVAT ACT DATED 16/09/2014 COMPLETED BY THE 1ST RESPONDENT FOR THE PERIOD JANUARY TO MARCH 2014.

P1(B): TRUE COPY OF ORDER OF PENALTY U/S.67 OF THE KVAT ACT DATED 19/09/2014 COMPLETED BY THE 1ST RESPONDENT FOR THE MONTH OF APRIL 2014.

P1(C): TRUE COPY OF ORDER OF PENALTY U/S.67 OF THE KVAT ACT DATED 19/09/2014 COMPLETED BY THE 1ST RESPONDENT FOR THE MONTH OF MAY 2014.

P1(D): TRUE COPY OF ORDER OF PENALTY U/S.67 OF THE KVAT ACT DATED 19/09/2014 COMPLETED BY THE 1ST RESPONDENT FOR THE MONTH OF JUNE 2014.

P2: TRUE COPY OF ORDER PASSED U/S.25(1) BY THE 1ST RESPONDENT FOR THE MONTHS OF JUNE AND NOVERMBER OF 2011.

P3: THE COPY OF REVISION DATED 20/03/2015 SUBMITTED BY THE PETITIONER, AGAINST EXT.P1, BEFORE THE 2ND RESPONDENT.

P3(A): TRUE COPY OF REVISION DATED 20/03/2015 SUBMITTED BY THE PETITIONER AGAINST EXT.P1(A), BEFORE THE 2ND RESPONDENT.

P3(B): TRUE COPY OF REVISION DATED 20/03/2015 SUBMITTED BY THE PETITIONER AGAINST EXT.P1(B), BEFORE THE 2ND RESPONDENT.

P3(C): TRUE COPY OF REVISION DATED 20/3/2015 SUBMITTED BY THE PETITIONER, AGAINST EXT.P1(C), BEFORE THE 2ND RESPONDENT.

P3(D): TRUE COPY OF REVISION DATED 20/03/2015 SUBMITTED BY THE PETITIONER AGAINST EXT.P1(D), BEFORE THE 2ND RESPONDENT.

P4: TRUE COPY OF APPEAL DATED 20/03/2015 SUBMITTED BY THE PETITIONER, AGAINST EXT.P2, BEFORE THE 3RD RESPONDENT.

P5: TRUE COPY OF STAY PETITION DATED 20/03/2015, SUBMITTED BEFORE 2ND RESPONDENT ALONG WITH EXT.P3 APPEAL.

P5(A): TRUE COPY OF STAY PETITION DATED 20/03/2015, SUBMITTED BEFORE 2ND RESPONDENT ALONG WITH EXT.P3(A) REVISION.

P5(B): TRUE COPY OF STAY PETITION DATED 20/03/2015, SUBMITTED BEFORE 2ND RESPONDENT ALONG WITH EXT.P3(B) REVISION.

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P5(C): TRUE COPY OF STAY PETITION DATED 20/03/2015, SUBMITTED BEFORE 2ND RESPONDENT ALONG WITH EXT.P3(C) REVISION.

P5(D): TRUE COPY OF STAY PETITION DATED 20/03/2015, SUBMITTED BEFORE 2ND RESPONDENT ALONG WITH EXT.P3(D) REVISION.

P6: TRUE COPY OF STAY PETITION DATED 20/03/2015, SUBMITTED BEFORE 3RD RESPONDENT ALONG WITH EXT.P4 APPEAL.

P7: TRUE COPY OF REVENUE RECOVERY NOTICE IN FORM NO.1 AND 10 SERVED BY THE 4TH RESPONDENT, PURSUANT TO EXT.P1(A) DEMAND.

P7(A): TRUE COPY OF REVENUE RECOVERY NOTICE IN FORM NO.1 AND 10 SERVED BY THE 4TH RESPONDENT, PURSUANT TO EXT.P1(A) DEMAND.

P7(B): TRUE COPY OF REVENUE RECOVERY NOTICE IN FORM NO.1 AND 10 SERVED BY THE 4TH RESPONDENT, PURSUANT TO EXT.P1(B) DEMAND.

P7(C): TRUE COPY OF REVENUE RECOVERY NOTICE IN FORM NO.1 AND 10 SERVED BY THE 4TH RESPONDENT, PURSUANT TO EXT.P1(C) DEMAND.

P7(D): TRUE COPY OF REVENUE RECOVERY NOTICE IN FORM NO.1 AND 10 SERVED BY THE 4TH RESPONDENT, PURSUANT TO EXT.P1(D) DEMAND.

P8: TRUE COPY OF REVENUE RECOVERY NOTICE IN FORM NO.1 AND 10 SERVED BY THE 4TH RESPONDENT PURSUANT TO EXT.P2 DEMAND.

RESPONDENT(S)' EXHIBITS
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).No.9652 of 2015

Dated this the 26th day of March, 2015

J U D G M E N T

Against Ext.P1 series of penalty orders under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P3 series of revisions and Ext.P5 series of stay petitions before the 2nd respondent. Similarly against Ext.P2 assessment order, the petitioner preferred Exts.P4 appeal and P6 stay petition before the 3rd respondent. It is the case of the petitioner that even prior to considering the stay petition by respondents 2nd and 3rd, recovery steps have been initiated against him through Exts.P7 series and P8 revenue recovery notices, for recovery of the amounts confirmed by Exts.P1 series of penalty orders and Ext.P2 assessment order.

2. I have heard the learned counsel for the petitioner and also 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 the following directions:

i. The respondents 2nd and 3rd shall consider and pass orders on stay petitions within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps pursuant to Exts.P7 series and P8 revenue recovery notices shall be kept in abeyance till orders are passed by 2nd and 3rd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 2nd and 3rd respondent shall be a reasoned one adverting to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal/revision.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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