IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 9666 of 2015 (G)

PETITIONER(S):

DILIP PAWAR,
PROPRIETOR, BHAIRAVNATH BULLIONS,
RAJASRE BHAVAN, MUNDAKKAYAM.P.O.,
KOTTAYAM DISTRICT, PIN - 686513.

BY ADV. SRI.MOHAMMED RAFIQ

RESPONDENT(S):

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1. **THE INTELLIGENCE OFFICER (IB),**
   COMMERCIAL TAXES, KOTTAYAM, PIN -686 002.

2. **DEPUTY COMMISSIONER,**
   COMMERCIAL TAXES, KOTTAYAM, PIN -686 002.

3. **THE INSPECTING ASSISTANT COMMISSIONER,**
   COMMERCIAL TAXES, PALA, PIN -686 575.

4. **THE MANAGER,**
   HDFC BANK LIMITED, THRIKKAKARA, ERNAKULAM,
   PIN -682021.

5. **THE STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY,
   TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
   TRIVANDRUM, PIN -695 001.

R1 TO R3, R5 BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN
R4 BY SRI.T.RAJESH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

vmr.

WP(C).No. 9666 of 2015 (G)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT.P1- **THE TRUE COPY OF THE ORDER NO.IBK/D/14-15/(12-13) DATED 18/12/2014 RELATING TO THE ASSESSMENT YEAR 2012-13 PASSED BY THE 1ST RESPONDENT UNDER SECTION 67 OF THE KERALA VALUE ADDED TAX ACT, 2003.**

EXHIBIT P2- **THE TRUE COPY OF THE ORDER NO.IBK/D/14-15/(13-14) DATED 18/12/2014 RELATING TO THE ASSESSMENT YEAR 2013-14 PASSED BY THE 1ST RESPONDENT UNDER SECTION 67 OF THE KERALA VALUE ADDED TAX ACT, 2003.**

EXHIBIT.P3- **THE TRUE COPY OF THE REVISION PETITION DATED 15/01/2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT RELATING TO THE PENALTY ORDER FOR THE YEAR 2012- 13.**

EXHIBIT P4- **THE TRUE COPY OF THE REVISION PETITION DATED 15/01/2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT RELATING TO THE PENALTY ORDER FOR THE YEAR 2013-2014.**

EXHIBI P5- **THE TRUE COPY OF THE STAY PETITION DATED 24/03/2015 FILED BEFORE THE 2ND RESPONDENT IN THE REVISION PETITION RELATING TO THE YEAR 2012-13.**

EXHIBIT P6- **THE TRUE COPY OF THE STAY PETITION DATED 24/03/2015 FILED BEFORE THE 2ND RESPONDENT IN THE REVISION PETITION RELATING TO THE YEAR 2013-14.**

EXHIBIT P7- **THE TRUE COPY OF THE PROHIBITORY ORDER DATED 20/03/2015 PASSED BY THE 3RD RESPONDENT UNDER SECTION 19 OF THE KERALA REVENUE RECOVERY ACT, 1968.**

EXHIBIT P8- **THE TRUE COPY OF THE LETTER NO RRC- 205/PNKM/14-15/IAC PALA DATED 20/03/2015 SENT BY THE 3RD RESPONDENT TO THE 4TH RESPONDENT.**

RESPONDENTS EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

vmr.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.9666 of 2015

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Dated this the 25th day of March, 2015

J U D G M E N T

Against Exts.P1 and P2 assessment orders under the Kerala Value Added Tax Act, the petitioner has preferred Exts.P3 and P4 revisions and Exts.P5 and P6 stay petitions before the 2nd respondent. Ext.P7 is the prohibitory order passed by the 3rd respondent. 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 Exts.P1 and P2 assessment orders.

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 2nd respondent shall consider and pass orders on Exts.P5 and P6 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 initiated against the petitioner pursuant to Ext.P7 and P8 shall be kept in abeyance till such time as orders are passed and communicated to the petitioner. I make it clear that if any account of the petitioner has been frozen pursuant to Ext.P7, the attachment over the said account shall be lifted during the currency of the stay granted in this judgment.

iii. The order to be passed by the 2nd 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns