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. 9675 of 2015 (H)

PETITIONER :

PRAKASH V.R,
RAJA BHAVANAM, PARAMPUZHA.P.O.,
KOTTAYAM-686 004

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

RESPONDENT(S):
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1. **COMMERCIAL TAX OFFICER,**
   2ND CIRCLE, KOTTAYAM-686 001

2. **THE DY. COMMISSIONER (APPEALS),**
   COMMERCIAL TAXES, PUBLIC OFFICE BUILDING,
   KOTTAYAM-686 001

3. **THE DY. TAHSILDAR (RR), KOTTAYAM-686 001**

4. **THE STATE PUBLIC INFORMATION OFFICER,**
   TALUK OFFICE, KOTTAYAM-686 001

R1 TO R4 BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

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

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WP(C).NO.9675/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1	COPY OF THE ASSESSMENT ORDER DATED 8/08/2014 FOR THE YEAR 2010-2011
P2	COPY OF THE APPEAL MEMORANDUM AGAINST EXT.P1
P3	COPY OF THE STAY PETITION IN EXT.P2 APPEAL.
P4	COPY OF THE STAY ORDER DATED 29/09/2014 ISSUED BY THE 2ND RESPONDENT ON EXT.P3
P5	COPY OF THE CHEQUE DATED 14/10/2014
P5(A)	COPY OF THE SECURITY BOND DATED 13/10/2014
P6	COPY OF THE LETTER DATED 16/10/2014 OF THE 1ST RESPONDENT.
P7	COPY OF THE APPLICATION DATED 9/12/2014 FILED UNDER THE RIGHT TO INFORMATION ACT.
P7(A)	COPY OF THE REPLY DATED 11/12/2014 RECEIVED FROM THE 4TH RESPONDENT UNDER THE RIGHT TO INFORMATION ACT.
P8	COPY OF THE DEMAND NOTICE DATED 2/12/2014 ISSUED BY THE 3RD RESPONDENT UNDER THE RR ACT.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J

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W.P.(C).Nos.9675 of 2015

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Dated this the 26th day of March, 2015

JUDGMENT

The petitioner against whom Ext.P1 assessment order under the Kerala Value Added Tax Act had been passed preferred an appeal and stay petition before the 1st respondent appellate authority. By Ext.P4 order, the 1st appellate authority had considered the stay petition and directed the petitioner to remit 30% of the amount demanded pursuant to Ext.P1 assessment order and to furnish adequate security for the remaining amount within two weeks from the date of receipt of the order as a condition for grant of stay against recovery of the balance amounts. While the petitioner remitted the 30% as directed in Ext.P4 order, he could not comply with the requirement of furnishing an adequate security to the satisfaction of the assessing authority, within the period granted to him. The facts in the writ petition would disclose that by Ext.P6 notice, the petitioner was informed that the bond furnished by him did not comply with the requirement of Rule 19 (2) of Kerala Value Added Tax Rules. It is faced with the said situation, of receiving Exts.P6 notice from the respondents, and not being able to provide a bond that complied with the requirement of Rule 19 (2) (e) of the Kerala

Value Added Tax Rules, that the petitioner has approached this Court seeking a direction to the respondents to accept an alternate security in lieu of the one insisted on in Ext.P4 order.

2. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, and taking note of the fact that the petitioner has already remitted 30% of the amounts confirmed against him by Ext.P1 assessment order, as directed in Ext.P4 order, I dispose the writ petition with the following directions:

> i. If the petitioner furnishes any security as mandated in Rule 19 (2) of the Kerala Value Added Tax Rules, to secure the balance amounts confirmed against him by Ext.P1 order, before the 1st respondent assessing authority within a period of two weeks from today, then the said security shall be treated as in compliance with the directions in Ext.P4 order.
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> ii. On the petitioner complying with the aforesaid direction, the 2nd respondent shall proceed to dispose the appeal preferred by the

petitioner within a period of two months from the date of receipt of a copy of this judgment after hearing the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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