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. 9721 of 2015 (M)

PETITIONER(S) :

M/S.KAVUNKAL GRANITES (P) LTD.,
MALAYALAPUZHA ERAM P.O., PATHANAMTHITTA,
REPRESENTED BY ITS MANAGING DIRECTOR,
SABU KURIAKOSE.

BY ADV. SRI.AJI V.DEV

RESPONDENT(S) :

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1. AGRICULTURAL INCOME TAX AND COMMERCIAL TAX OFFICER, RANNY-686 101.

2. INSPECTING ASST. COMMISSIONER, COMMERCIAL TAXES, PATHANAMTHITTA-686 645.

3. DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, KOLLAM-691 012.

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. 9721 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: A TRUE COPY OF THE PURCHASE BILL OF THE PRIMARY CRUSHER DATED 20.07.2012.

P1(A): A TRUE COPY OF THE PURCHASE BILL OF THE CONE CRUSHER DATED 23.10.2012.

P1(B): A TRUE COPY OF THE PURCHASE BILL OF THE VSI MACHINE DATED 31.10.2012.

P2: A TRUE COPY OF THE APPLICATION IN FORM - 1B DATED 22.07.2014.

P3: A TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT DATED 19.09.2014.

P4: A TRUE COPY OF THE REPLY FILED BY THE PETITIONER DATED 10.10.2014.

P5: A TRUE COPY OF THE PROCEEDINGS DATED 20.10.2014 PASSED BY THE 1ST RESPONDENT REJECTING COMPOUNDING APPLICATION.

P6: A TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.29925 OF 2014, DATED 23.02.2015.

P7: A TRUE COPY OF THE STATUTORY APPEAL DATED 02.03.2015.

P7(A): A TRUE COPY OF THE PETITION FOR STAY DATED 02.03.2015.

P7(B): A TRUE COPY OF THE PETITION FOR ADVANCE HEARING OF THE APPEAL DATED 02.03.2015.

P8: A TRUE COPY OF THE NOTICE DATED 21.01.2015 PROPOSING TO ASSESS THE ANNUAL TURNOVER UNDER SECTION 6(1) OF THE ACT.

P9: A TRUE COPY OF THE APPELLATE ORDER DATED 17.01.2015 PASSED IN A SIMILAR CASE.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J

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W.P.(C).Nos.9721 of 2015

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Dated this the 26th day of March, 2015

JUDGMENT

Against Ext.P5 order rejecting an application for compounding under Section 8 (b) of the Kerala Value Added Tax Act submitted by the petitioner, the petitioner preferred Ext.P7 appeal and P7(a) stay petition before the 3rd respondent. It is the case of the petitioner in the writ petition that, even before the appeal and stay petition have been considered by the 3rd respondent, the 1st respondent has issued Ext.P8 notice proposing to complete the assessment of the petitioner for the assessment year in question under the regular mode of assessment under Section 6(1) of the Kerala Value Added Tax Act.

2. I have heard the 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, I dispose the writ petition with the following directions:

The 3rd respondent shall pass orders in

Ext.P7 appeal within a period of two months from the date of receipt of a copy of this judgment. I make it clear that, while steps for recovery of amounts pursuant to Ext.P5 order shall be kept in abeyance till such time as orders are passed by the 3rd respondent in Ext.P7 appeal, the proceedings initiated by the 1st respondent by Exts.P8 notice can continue subject to the condition that no recovery of amounts, if any confirmed against the petitioner, shall be effected till such time as the 3rd respondent passes orders in Ext.P7 appeal as directed, and communicates the same to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns