IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 10587 of 2015 (W)

PETITIONER(S)/PETITIONER:

M/S. YOGESH TRADING COMPANY AGED 63 YEARS
KOTTACHERRY, KANHANAGAD-671315
REPRESENTED BY ITS MANAGING PARTNER SHRI. YOGESH PRABHU.

BY ADVS.SRI.T.M.SREEDHARAN (SR.)
SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN

RESPONDENT(S)/RESPONDENTS:

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1. THE INTELLIGENCE OFFICER (IB)
COMMERCIAL TAXES, THIRUVANANTHAPURAM-695001.

2. THE ASSISTANT COMMISSIONER
KVAT SPECIAL CIRCLE, COMMERCIAL TAXES
KASARAGOD-671121.

3. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.

R BY GOVERNMENT PLEADER, SMT. SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 10587 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1- **TRUE COPY OF THE COMPOUNDING APPLICATION DATED 14-10-2014 SUBMITTED U/S 47 BEFORE THE 1ST RESPONDENT.**

EXHIBIT P2- **TRUE COPY OF THE JUDGMENT IN WPC NO. 3524/2015 DATED 09-02-2015.**

EXHIBIT P3- **TRUE COPY OF THE NOTICE DATED 31-3-2014 ISSUED BY THE 1ST RESPONDENT.**

RESPONDENT'S EXHIBITS:-
--- **NIL**

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 10587 of 2015
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Dated this the 9th day of April, 2015

JUDGMENT

The petitioner, who had approached this Court aggrieved by the inaction on the part of the 1st respondent in disposing the compounding application that was preferred by him with regard to the penalty imposed under Section 45A for the assessment year 2002-03, now submits that by Ext.P4 order, that is produced along with IA No.5397 of 2015, the 1st respondent has rejected his application for compounding. Under the said circumstances, the limited prayer of the petitioner now, is for a direction to keep the recovery steps, for recovery of the penalty amounts confirmed against him, in abeyance for a period of one month so as to enable him to avail of the statutory remedy against Ext.P4 order under the KGST Act.

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

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that against Ext.P4 order passed by the 1st respondent, the petitioner seeks to

avail a statutory remedy under the KGST Act. The limited prayer at this stage is only for a direction to keep the recovery steps in abeyance till such time as the petitioner avails his statutory remedy against Ext.P4 order. Taking note of the submissions of counsel for the petitioner, I dispose the writ petition with the following directions:

The recovery steps for recovery of penalty amounts confirmed against the petitioner for the assessment year 2002-03 shall be kept in abeyance for a period of one month from the date of receipt of a copy of this judgment, so as to enable the petitioner to avail his statutory remedy against Ext.P4 order of the 1st respondent. I make it clear that on the expiry of the period of one month aforementioned, the stay granted by this judgment shall cease to be in force.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das