IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

WP(C).No. 11114 of 2015 (L)

PETITIONER(S) :

M/S.MANNIL AGENCIES,
ADOOR, REPRESENTED BY ITS MANAGING PARTNER,
PHILIP MATHEW.

BY ADVS.SRI.ANIL D. NAIR
SRI.R.SREEJITH
SMT.C.S.SULEKHA BEEVI
SMT.ROSIE ATHULYA JOSEPH

RESPONDENT(S) :
----

1. THE COMMERCIAL TAX OFFICER,
   COMMERCIAL TAXES, ADOOR - 689 601.

2. THE DEPUTY COMMISSIONER,
   COMMERCIAL TAXES, PATHANAMTHITTA - 689 645.

3. THE STATE OF KERALA,
   REPRESENTED BY ITS SECRETARY (TAXES), SECRETARIAT,
   THIRUVANANTHAPURAM - 695 001.

BY SR.GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 11114 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P1: **TRUE COPY OF THE ASSESSMENT ORDER DATED 17/10/2010 FOR THE YEAR 2008-09 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.**

EXT.P2: **TRUE COPY OF THE APPELLATE ORDER DATED 04/06/2012 FOR THE YEAR 2008-2009 ISSUED TO THE PETITIONER BY THE DEPUTY COMMISSIONER (APPEALS), KOLLAM.**

EXT.P3: **TRUE COPY OF THE MODIFIED ORDER FOR DATED 04/02/2013 FOR THE YEAR 2008-2009 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.**

EXT.P4: **TRUE COPY OF THE NOTICE DATED 03/02/2015 THE YEAR 2008-2009 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT.**

EXT.P5: **TRUE COPY OF THE REPLY DATED 20/02/2015 FILED BEFORE THE 2ND RESPONDENT BY THE PETITIONER.**

EXT.P6: **TRUE COPY OF THE ORDER DATED 06/03/2015 FOR THE YEAR 2008-2009 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

****

W.P.(C) No.11114 of 2015

****

Dated this the 9th day of July, 2015

JUDGMENT

The petitioner, impugning *suo motu* revision proceedings initiated by the Deputy Commissioner and consequential order under Section 56 of the Kerala Value Added Tax Act (for short, "KVAT Act"), have approached this Court. The petitioner impugns a legality of the proceedings in the order.

2. The petitioner submits that they may avail an alternative remedy invoking under Section 59 of the KVAT Act before the Commissioner. Therefore, leaving open the issue regarding legality and merit of the decision of the Deputy Commissioner, this writ petition is disposed of with the following directions:

i. If the petitioner approaches the Commissioner under Section 59 of the KVAT Act within two weeks, the same shall be entertained by the Commissioner and appropriate orders thereon shall be passed after issuing notice to the petitioner within a further period of two months.

ii. Till the disposal of the Revision, any recovery pursuant to the modified order shall be deferred.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

ln