IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 11115 of 2015 (L)

PETITIONER:

ABDUL LATHEEF, PROPRIETOR,
MALABAR VILLAGE,
AMBALAM BYE PASS ROAD, THODUPUZHA,
IDUKKI DISTRICT, PIN - 685 584.

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

RESPONDENT(S):
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1. INTELLIGENCE OFFICER, SQUAD NO.2,
COMMERCIAL TAXES, MINI CIVIL STATION,
THODUPUZHA, IDUKKI DISTRICT, PIN - 685 584.

2. THE INSPECTING ASSISTANT COMMISSIONER,
(INTELLIGENCE), COMMERCIAL TAX COMPLEX,
NEDUNKANDAM, IDUKKI DISTRICT - 685 553.

3. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 11115 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 : COPY OF THE SIR DATED 12.11.2013.

EXHIBIT P2 : COPY OF THE LETTER DATED 28.11.2013.

EXHIBIT P3 : COPY OF THE PENALTY ORDER DATED 27.11.2014.

EXHIBIT P4 : COPY OF THE RECTIFICATION PETITION DATED 30.12.2014.

EXHIBIT P5 : COPY OF THE ORDER IN THE P4 DATED 23.1.2015.

EXHIBIT P6 : COPY OF THE SECOND PETITION DATED 31.3.2015.

EXHIBIT P7 : COPY OF THE INFORMATION UNDER RTI ACT, FROM 1ST RESPONDENT DATED 27.1.2015.

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.11115 of 2015 (L)

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Dated this the 6th day of April, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P3 order imposing penalty, as confirmed by Ext.P5 order passed in the rectification application preferred by the petitioner.

2. It is the case of the petitioner that, although, he had filed the rectification application seeking rectification of Ext.P3 order, in as much as it had not considered certain contentions of the petitioner, in Ext.P5 order that was passed by the 1st respondent in the rectification application, the said respondent found that, there is no ground made out for rectification of any mistake.

3. On a perusal of Exts.P3 and P5 orders, I find that the petitioner has an effective alternate remedy against the said orders by way of filing a revision before the revision authority under the Kerala Value Added Tax Act, 2003. Exts.P3 and P5 orders are not vitiated by any error of jurisdiction, warranting an interference with the same in these proceedings under Article 226 of the Constitution of India. Accordingly, relegating the petitioner to his revisional remedy under the KVAT Act, the present writ petition in its challenge against Exts.P3 and P5 orders, is dismissed.

The learned counsel for the petitioner would submit that, there is a possibility that recovery action may be initiated against the petitioner for recovery of the penalty amounts confirmed against him by Ext.P3 order. Taking note of the said submission of the learned counsel for the petitioner, I stay the recovery proceedings, for recovery of amounts confirmed against the petitioner by Ext.P3 order, for a period of one month so as to enable the petitioner to pursue his revisional remedy under the KVAT Act against Exts.P3 and P5 orders. I make it clear that, on the expiry of the period of one month stated above, the stay granted by this Court shall cease to operate.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/06/04/