IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

WP(C).No. 11509 of 2015 (K)

PETITIONER:

SREEDHARAN & COMPANY PRIVATE LIMITED,
TKN/11/131, THALIKKAVU, KANNUR-670 001,
KERALA, REPRESENTED BY ITS
JOINT MANAGING DIRECTOR MR.K.ANUP.

BY SMT.SUMATHY DANDAPANI (SENIOR ADVOCATE)
ADV. SRI.MILLU DANDAPANI

RESPONDENT(S):
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1. **ASSISTANT COMMISSIONER (KVAT)-II,**
   COMMERCIAL TAXES, SPECIAL CIRCLE,
   KANNUR-670 001.

2. **DEPUTY COMMISSIONER,**
   DEPARTMENT OF COMMERCIAL TAXES,
   KANNUR-670 001.

3. **COMMISSIONER,**
   DEPARTMENT OF COMMERCIAL TAXES,
   THIRUVANANTHAPURAM-695 002.

4. **STATE OF KERALA,**
   REPRESENTED BY ITS FINANCE SECRETARY,
   THIRUVANANTHAPURAM-695 001.

BY SENIOR GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 11509 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P.1: TRUE COPY OF THE JUDGMENT OF THE APEX COURT DATED 8.8.2006 IN CIVIL APPEAL NOS.1253 TO 1258 OF 2001.

EXHIBIT P.2: TRUE COPY OF THE ORDER NO.35152452/84-85 DATED 4.8.99 PASSED BY THE 1ST RESPONDENT.

EXHIBIT P.3: TRUE COPY OF THE ORDER NO.35152452/86-87 DATED 15.6.99 PASSED BY THE 1ST RESPONDENT.

EXHIBIT P.4: TRUE COPY OF THE ORDER NO.35152452/87-88 DATED 15.6.99 PASSED BY TE 1ST RESPONDENT.

EXHIBIT P.5: TRUE COPY OF THE ORDER NO.35152452/90-91 DATED 20.08.99 PASSED BY THE 1ST RESPONDENT.

EXHIBIT P.6: TRUE COPY OF THE ORDER NO.35152452/91-92 DATED 29.12.99 PASSED BY THE 1ST RESPONDENT.

EXHIBIT P.7: TRUE COPY OF THE ORDER NO.35152452/92-93 DATED 20.8.99 PASSED BY THE 1ST RESPONDENT.

EXHIBIT P.8: TRUE COPY OF THE REQUEST DATED 19.9.2006 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.

EXHIBIT P.9: TRUE COPY OF THE DELIVERY BOOK SHOWING ACKNOWLEDGMENT OF LETTER DATED 23.1.2007 BY THE 1ST RESPONDENT.

EXHIBIT P.10: TRUE COPY OF THE LETTER DATED 30.9.2011 SUBMITTED TO THE 1ST RESPONDENT.

EXHIBIT P.11: TRUE COPY OF THE LETTER DATED 16.7.2012 SUBMITTED TO THE 1ST RESPONDENT.

EXHIBIT P.12: TRUE COPY OF LETTER DATED 20.12.2012 SUBMITTED TO THE 2ND RESPONDENT.

EXHIBIT P.13: TRUE COPY OF THE LETTER DATED 18.6.2013 SUBMITTED TO THE 2ND RESPONDENT.

EXHIBIT P.14: TRUE COPY OF THE LETTER DATED 1.8.2013 SUBMITTED TO THE 2ND RESPONDENT.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

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W.P.(C) No.11509 of 2015

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Dated this the 21st day of July, 2015

JUDGMENT

The petitioner by virtue of the judgment of the Hon'ble Supreme Court, produced as Ext.P1, are entitled for refund of the Kerala General Sales Tax paid in excess. The petitioner has approached this Court on account of delay in refunding the amount due to the petitioner.

2. In this matter, a statement has been filed by the first respondent. In the statement, it is stated as follows:

> “In the above circumstances, it is humbly prayed that the petitioner is not entitled to get any other reliefs as prayed for and the writ petition may be disposed of. This Hon'ble Court may be pleased to direct the petitioner to produce the copies of all the orders of the assessment years 1984-85 to 1992-93, along with the remittance particulars.”

3. The petitioner claimed an amount of Rs.10,08,516/-. However, in the statement, it is stated as Rs.8.67 lakhs. It is not

discernible how the figure was arrived when it is claimed, no records were available with them. Nevertheless, I am of the view, the petitioner shall make available all the assessment orders relating to the period from 1984-1985 to 1992-1993 with the authority. Based on those records, necessary refund shall be granted to the petitioner within a period of three months.

The writ petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE

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