

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 12308 of 2015 (K)

PETITIONER(S):

**SPEON ENGINEERING, REPRESENTED BY
ABDUL KHADER, AGED 40 YEARS, S/O. ALI,
MANAGING PARTNER, NELLIKURISSI ROAD
MANGALAM, LAKKIDI, PEROOR, OTTAPALAM**

BY ADV. SRI.S.MURALI

RESPONDENT(S):

- 1. THE STATE OF KERALA, REP BY ITS
SECRETARY, TAXES, GOVERNMENT OF KERALA
THIRUVANANTHAPURAM - 695 001**
- 2. COMMERCIAL TAX OFFICER, COMMERCIAL TAX OFFICE
OTTAPALAM - 679 101**
- 3. DEPUTY COMMISSIONER OF COMMERCIAL TAXES (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES
GOVERNMENT OF KERALA, PALAKKAD, 678 001**

R BY GOVERNMENT PLEADER, SMT. SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1 TRUE COPY OF THE ORDER No.32091012527/2012-13 DATED 11.03.2015 ISSUED BY THE 2ND RESPONDENT U/S67(1) OF THE KVAT ACT.
- EXHIBIT P2 TRUE COPY OF THE ORDER No.32091012527/2013-14 DATED 11/3/2015 ISSUED BY THE 2ND RESPONDENT U/S 67(1) OF THE KVAT ACT.
- EXHIBIT P3 TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 12/3/2015 CHALLENGING ASSESSMENT ORDER FOR THE FINANCIAL YEAR 2012-13 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P4 TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 12/3/2015 CHALLENGING ASSESSMENT ORDER FOR THE FINANCIAL YEAR 2013-14 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P5 TRUE COPY OF THE INTERLOCUTORY APPLICATIONN FOR THE RELIEF OF URGENT HEARING OF EXHIBIT P3 APPEAL FOR THE FINANCIAL YEAR 2012-13 FILED BEFORE 3RD RESPONDENT.
- EXHIBIT P6 TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR THE RELIEF OF CONDONATION OF DELAY OF EXHIBIT P3 APPEAL FOR THE FINANCIAL YEAR 2012-13 FILED BEFORE 3RD RESPONDENT.
- EXHIBIT P7 TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR THE RELIEF OF STAY OF COLLECTION OF TAX IN EXHIBIT P3 APPEAL FOR THE FINANCIAL YEAR 2012-13 FILED BEFORE 3RD RESPONDENT.
- EXHIBIT P8 TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR THE RELIEF OF URGENT HEARING OF EXHIBIT P4 APPEAL FOR THE FINANCIAL YEAR 2013-14 FILED BEFORE 3RD RESPONDENT.
- EXHIBIT P9 TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR THE RELIEF OF CONDONATION OF DELAY OF EXHIBIT P4 APPEAL FOR THE FINANCIAL YEAR 2013-14 FILED BEFORE 3RD RESPONDENT.
- EXHIBIT P10 TRUE COPY OF THE INTERLOCUTORY APPLICATION FOR THE RELIEF OF STAY OF COLLECTION OF TAX IN EXHIBIT P4 APPEAL FOR THE FINANCIAL YEAR 2013-14 FILED BEFORE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 12308 of 2015

Dated this the 10th day of April, 2015

JUDGMENT

The Petitioner is an assessee under the Kerala Value Added Tax Act, 2003, hereinafter referred to as 'KVAT Act'. Against Exts.P1 and P2 penalty orders under the KVAT Act, the petitioner had preferred Exts.P3 and P4 appeals before the 3rd respondent. Along with the appeals, the petitioner has also preferred Exts.P6 and P9 delay condonation petitions and Exts.P7 and P10 stay petitions before the 3rd respondent. It is the case of the petitioner that even prior to considering the stay petitions, recovery steps are taken by the respondents for recovery of the amounts confirmed against the petitioner by Exts.P1 and P2 penalty orders.

2. I have heard the learned counsel appearing for the petitioner and also the learned Standing counsel appearing for the respondents.

3. 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:

1. The 3rd respondent shall consider and pass orders on Exts.P6 and P9 delay condonation petitions and

Exts.P7 and P10 stay petitions within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

2.Recovery steps for recovery of amounts confirmed against petitioner pursuant to Exts.P1 and P2 penalty orders shall be kept in abeyance till orders are passed by the 3rd respondent as directed above and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das