IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(C).No. 12863 of 2015 (G)

PETITIONER(S) :

N.B.JAYAKRISHNAN & CO.,
ENGINEERING CONTRACTORS, PUTHIYAPALAM, CALICUT-673 004,
REPRESENTED BY N.B.JAYAKRISHNAN, MANAGING PARTNER.

BY ADV. SRI.JOSE JOSEPH

RESPONDENT(S) :
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1. THE INTELLIGENCE OFFICER (IB),
   OFFICE OF THE DEPUTY COMMISSIONER(INT.),
   COMMERCIAL TAXES, SALES TAX COMPLEX,
   JAWAHAR NAGAR COLONY, KOZHIKODE- 673 006.

2. THE DEPUTY COMMISSIONER,
   COMMERCIAL TAXES, KOZHIKODE-673 006.

BY GOVERNMENT PLEADER SMT.K.T.LILLY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 12863 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: TRUE COPY OF NOTICE U/S 67 OF THE KVAT ACT FOR THE YEAR 2005-06 DATED 21.04.2009

P2: TRUE COPY OF NOTICE U/S 67 OF THE KVAT ACT FOR THE YEAR 2006-07 DATED 21.04.2009 .

P3: TRUE COPY OF PETITIONER'S LETTER PERTAINING TO 2005-06 DATED 08.05.2009.

P4: TRUE COPY OF PETITIONER'S LETTER PERTAINING TO 2006-07 DATED 08.05.2009.

P5: TRUE COPY OF ORDER LEVYING PENALTY FOR THE YEAR 2005-06 DATED 12.11.2014.

P6: TRUE COPY OF ORDER LEVYING PENALTY FOR THE YEAR 2006-07 DATED 12.11.2014.

P7: TRUE COPY OF REVISION BEFORE THE 2ND RESPONDENT AGAINST EXT.P5 ORDER DATED 04.12.2014.

P8: TRUE COPY OF REVISION BEFORE THE 2ND RESPONDENT AGAINST EXT.P6 ORDER DATED 04.12.2014.

P9: TRUE COPY OF ORDER OF THE 2ND RESPONDENT IN I.A.NO.458, 460/2014 IN R.P.NO.430/14 & 431/14 DATED 26.03.2015.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.12863 of 2015

Dated this the 4th day of June, 2015

J U D G M E N T

The petitioner is a registered dealer under the provisions of the Kerala Value Added Tax, 2003. He has preferred Exts.P7 and P8 revisions before the 2nd respondent against Exts.P5 and P6 orders. The petitioner has filed this writ petition challenging Ext.P9 order of the 2nd respondent.

2. The learned counsel for the petitioner submits that, the main ground raised in the revisions is that, the penalty imposed after expiry of 3 years from detection of alleged offence is unsustainable and barred by limitation. It is also submits that, overlooking the above legal provision, the revisional authority imposed a condition to deposit an amount of ₹3,00,000/- and furnish security for the balance amount to the satisfaction of the assessing authority.

3. Heard the learned counsel for the petitioner as well as the learned Government Pleader for the respondents.

4. The facts would disclose that the petitioner has made a *prima facie* case on the limitation. In that view of the matter, the stay order is modified and condition is vacated. There shall be an absolute stay against recovery till disposal of the revisions. The

revisional authority is directed to dispose of the revisions within a period of three months from the date of receipt of a copy of this judgment, after notice to the petitioner.

This writ petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV