IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 28TH DAY OF APRIL 2015/8TH VAISAKHA, 1937

WP(C).No.13082 of 2015 (G)

PETITIONER:

OM PRAKASH KHATRI,PROPRIETOR,O.M.JEWELLERS,
AT 1001,10TH FLOOR,SHANKAR SHETH PALACE,
NANA CHOWK,GRANT ROAD,MUMBAI-400007.

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

RESPONDENT'S:
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1. THE COMMERCIAL TAX OFFICER,
KVAT CIRCLE-IV,ERNAKULAM-682015.

2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES,ERNAKULAM-682015.

3. THAHASILDAR,OFFICER OF THE COLLECTOR MUMBAI CITY,
GOVERNMENT DUES RECOVERY SECTION,
OLD CUSTOM HOUSE,FORT,MUMBAI-400023.

BY SENIOR GOVT. PLEADER SRI.S.SUDHEESH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No.13082 of 2015 (G)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBTI P1: TRUE COPY OF THE ASSESSMENT ORDER DATED 8.6.2012 FOR THE YEAR 2010-11 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.

EXHIBIT P2: TRUE COPY OF THE ASSESSMENT ORDER DATED 8.6.2012 FOR THE YEAR 2011-12 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.

EXHIBIT P3: TRUE COPY OF THE APPEAL FILED FOR THE YEAR 2010-11 BEFORE THE 2ND RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE APPEAL FILED ORDER FOR THE YEAR 2011-2012 BEFORE THE 2ND RESPONDENT.

EXHIBIT P5: TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT P6: TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT P7: TRUE COPY OF THE NOTICE DATED 22.4.2015 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

EXHIBIT P8: TRUE COPY OF THE NOTICE DATED 22.4.2015 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

RESPONDENT'S EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

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K.VINOD CHANDRAN, J.

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W.P.(C) No.13082 of 2015 E

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Dated this the 28th day of April 2015

<u>JUDGMENT</u>

The above Writ Petition is filed to stay the recovery of demand made for the assessment years 2010-2011 and 2011-2012. Purportedly the above Writ Petition (Civil) has been filed with a contention that the appeals filed against the assessment orders have not been considered till date. The appeals and assessment orders are produced respectively at Ext.P3 to P6 which indicates that the appeals were filed in the year 2012. The contention is that since the stay applications were not considered, the recovery be stayed till the appeal is disposed of. The petitioner assessee having filed applications to stay the assessment orders, ought to have prayed for consideration of the same or ought to have approached this court for expeditious consideration, within a reasonable time. The same having not been done. This court is not inclined, at this point of time, to grant an order of stay of recovery till the appeals are considered. However, if the petitioner pays 30% of the demand made for the respective years, the recoveries shall be stayed for till the appeals are considered. The 30% as per Ext.P7 and P8 shall be paid within a period of two months from today. The recovery shall be kept in abeyance for two months from today.

The Writ Petition (Civil) is disposed with the above observations.

sd/
K.VINOD CHANDRAN J,
JUDGE

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