IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

WP(C).No. 15542 of 2015 (P)
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PETITIONER(S):
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M/S.R F MOBIKES (INDIA) PVT. LTD.,
28/462B, 'CHILTON TOWERS', NH 47, KOONAMTHAI,
EDAPPALLY P.O., COCHIN-682 024,
REPRESENTED BY ITS MANAGER
(ACCOUNTS & FINANCE) SRI. SREEKUMAR T.V.

BY ADVS.SRI.TOMSON T.EMMANUEL,
SRI.N.JAYAKUMAR.

RESPONDENT(S):
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1. ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, SPECIAL CIRCLE III,
THEVARA, ERNAKULAM, COCHIN-682 015.

* <u>ADDL. R2 & R3 IMPLEADED</u>

2. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, SALES TAX COMPLEX,
THEVARA, COCHIN-682 015.

3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, COCHIN-682 030.

* ADDL. R2 & R3 ARE IMPLEADED AS PER ORDER DATED 12/06/2015
IN I.A. NO.7942/2015.

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rs.

WP(C).No. 15542 of 2015 (P)

## APPENDIX

PETITIONER'S EXHIBITS:-

P1 : TRUE COPY OF NOTICE IN FORM NO.10G DATED 16-06-2014 ISSUED TO THE PETITIONER U/S. 22(3) OF THE KVAT ACT BY RESPONDENT FOR NON FILING OF RETURN FOR APRIL 2014, SERVED TO THE PETITIONER ON 21-06-2014.

P2 : TRUE COPY OF REPLY DATED 27-06-2014 SUBMITTED BEFORE 1ST RESPONDENT ON 27-06-2014 AGAINST EXT P1 NOTICE.

P3 : TRUE C OPY OF E-RETURN DATED 10-07-2014 FOR THE MONTH OF APRIL 2014, SUBMITTED BY PETITIONER, AFTER E-PAYMENT OF OUTPUT TAX DUE, INTEREST AND SETTLEMENT FEE.

P4 : TRUE COPY OF ORDER DATED 30-06-2014 PASSED BY RESPONDENT U/S 22(3) FOR APRIL 2014, ONLY BY REFERRING EXT P2 REPLY OF THE PETITIONER, WITHOUT AFFORDING PETITIONER WITH AN OPPORTUNITY OF PERSONAL HEARING, WHICH IS AFTER FILING E-RETURN FOR APRIL 2014.

P5 : TRUE COPY OF DECISION OF THIS HON'BLE COURT IN SUZION INFRASTRUCTURE SERVICE LTD. VS. COMMERCIAL TAX OFFICER (WC), ERNAKULAM REPORTED IN (2010) 3 KHC 299.

P5(A) : TRUE COPY OF DECISION OF DIVISION BENCH OF THIS HON'BLE COURT IN COMMERCIAL TAX OFFICER, IRINJALAKUDA AND OTHERS VS. C U. MATHAI, REPORTED IN (2012) 513 VST 253 (KER).

P6: COPY OF THE APPEAL SUBMITTED BY THE PETITIONER PURSUANT TO EXT.P4 ORDER BEFORE DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, ERNAKULAM.

P7: COPY OF THE PETITIONER FOR CONDONING DELAY SUBMITTED ALONG WITH EXT,P6 APPEAL BEFORE DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, ERNAKULAM.

P8: COPY OF THE PETITION FOR STAY SUBMITTED BEFORE DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, ERNAKULAM, ALONG WITH EXT.P2 REPLY AND EXT.P3 MONTHLY E-RETURN FOR APRIL 2014.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

**A.MUHAMED MUSTAQUE, J.**

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W.P.(C) No.15542 of 2015

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Dated this the 12th day of June, 2015

**J U D G M E N T**

The petitioner has filed this writ petition challenging Ext.P4 order passed by the respondent. The petitioner as against the assessment order has preferred an appeal.

2. The learned counsel for the petitioner submits that, the petitioner did not receive the original order in time and therefore there was delay in filing the appeal.

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

4. Considering the facts and circumstances of the case, there shall be a direction to the appellate authority to consider the delay condonation petition filed by the petitioner within a period of one month from the date of receipt of a copy of this judgment. If the delay condonation petition is allowed, the authority is further directed to consider the stay application within a further period of one month. To work out the above reliefs, all revenue recovery proceedings shall be deferred for a period of two months. It is made clear that, on account of any liability for the assessment of April 2014, the petitioner's goods shall not be detained.

This writ petition is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE, JUDGE.**

AV