IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

WP(C).No. 16725 of 2015 (M)
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PETITIONER(S) :

M/S.PPK CONSTRUCTIONS,
TC 25/946, SREMOOLAM ROAD, TRIVANDRUM-695 001,
REPRESENTED BY MANAGING PARTNER.

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

RESPONDENT(S) :
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1. **THE COMMERCIAL TAX OFFICER,**
   COMMERCIAL TAXES OFFICE, TRIVANDRUM-695 001.

2. **STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY, TAXES,
   THIRUVANANTHAPURAM-695 001.

BY GOVERNMENT PLEADER SRI.SHOBA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-07-2015, ALONG WITH W.P.(C).NO.16801 OF 2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 16725 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1:	TRUE COPY OF THE KVAT CERTIFICATE OF REGISTRATION.
EXHIBIT P2:	TRUE COPY OF THE COMPOUNDING APPLICATION DATED 01-05-2015 (A.Y. 2015-2016).
EXHIBIT P3:	TRUE COPY OF THE COMPOUNDING PERMISSION FOR A.Y. 2014-15 DATED 28-04-2014.
EXHIBIT P4:	TRUE COPY OF THE WORK AGREEMENT SE(K) 132/12-13 DATED 21-11-2012.
EXHIBIT P5:	TRUE COPY OF THE WORK AGREEMENT HED/N/C/05/12-13 DATED 12-04-2013.
EXHIBIT P6:	TRUE COPY OF THE KVAT ANNUAL RETURN FOR THE A.Y. 2013-14.
EXHIBIT P7:	TRUE COPY OF THE LIABILITY CERTIFICATE FOR THE YEAR 2014-2015.
EXHIBIT P8:	TRUE COPY OF THE LIABILITY CERTIFICATE IN FORM NO. 1EE DIRECTING TO DEDUCT 5% TDS FROM THE PAYMENTS FOR WORK AS PER P5 AGREEMENT.
EXHIBIT P9:	TRUE COPY OF THE LIABILITY CERTIFICATE IN FORM NO. 1EE DIRECTING TO DEDUCT 5% TDS FROM THE PAYMENTS FOR WORK AS PER P4 AGREEMENT.

RESPONDENT(S)' ANNEXURES :

ANNEXURE R1(A): TRUE COPY OF THE CIRCULAR NO.4/2015 DATED 17.01.2015.

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A. MUHAMED MUSTAQUE, J.

W.P(C). Nos. 16725 & 16801 of 2015

Dated this the 24th day of July, 2015

<u>J U D G M E N T</u>

These writ petitions are filed by registered dealers, aggrieved by the liability certificate issued by the 1st respondent. The petitioners submitted applications for compounding for the the year 2015-2016 and also made request for issuing liability certificate to receive payment from the Awarders in relation to the work compounded in previous years. The petitioners were issued with liability certificates, produced as Exts.P8 & P9 in WP(C) No.16725/2015 and Exts.P9 & P10 WP(C) No.16801/2015. In WP (C) No.16725/2015 the TDS is shown at the rate of 5%. According to the petitioner the rate applicable is 3%. In WP(C) No.16801/2015 TDS is shown at the rate of 4% as against rate applicable at 3%. Petitioners' case is that, works have already been completed and they have submitted bills in the subsequent years. It is submitted that they are entitled for rate applicable in 3% for the previous years.

2. Learned Government Pleader submits that the petitioners have not completed the project and the project is

ongoing and therefore taking into account of the facts and circumstances, the authority issued certificate showing the rate applicable.

3. Learned counsel for the petitioners submits that, the petitioners are prepared to produce the relevant materials before the authority to reconsider the matter to show that works have been already completed.

4. In that view of the matter, if the petitioners produce materials to show that the works have been completed, necessarily, the revised liability certificate shall be issued to the petitioners, if otherwise eligible, showing the actual rate applicable.

These writ petitions are disposed of. Needful shall be done within a period of two weeks from the date of production of materials by the petitioners.

Sd/-
A. MUHAMED MUSTAQUE, JUDGE.

Pn