IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

WP(C).No. 18060 of 2015 (F)

PETITIONER(S):

M/S.INSTITUTE OF INDIAN THERAPIES,
ANNAMANADA PO, THRISSUR 680 741.

BY ADV. SRI.A.KUMAR

RESPONDENT(S):

THE COMMERCIAL TAX OFFICER,
DEPARTMENT OF COMMERCIAL TAXES,
CHALAKUDY.

BY SENIOR GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 18060 of 2015 (F)
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APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1	**A TRUE COPY OF THE ANNUAL RETURN FILED FOR THE ASSESSMENT YEAR 2010-11**
EXT.P2	**A TRUE COPY OF THE KVAT ASSESSMENT ORDER DATED 5/10/2013**
EXT.P3	**A TRUE COPY OF THE NOTICE DATED 24/11/2014 ISSUED BY THE RESPONDENT**
EXT.P4	**A TRUE COPY OF THE KVAT ASSESSMENT ORDER DATED 16/1/15**
EXT.P5	**A TRUE COPY OF THE RECTIFICATION ORDER DATED 21/03/15**
EXT.P6	**A TRUE COPY OF THE NOTICE DATED 11/112014**
EXT.P7	**A TRUE COPY OF THE APPLICATION OF THE PETITIONER PENDING REFUND DATED 30/6/2011**
EXT.P8	**A TRUE COPY OF THE CST ASSESSMENT ORDER FOR 2010-2011 DATED 6/2/15**
EXT.P9	**A TRUE COPY OF THE RECTIFIED ORDER DATED 21/3/2015**
EXT.P10	**A TRUE COPY OF THE DEMAND RAIED BASED ON THE RECTIFIED ORDER DATED 21/3/2015**
EXT.P11	**A TRUE COPY OF THE RECTIFICATION APPLICATION DATED 10/6/2015**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A. MUHAMED MUSTAQUE, J.
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W.P(C). No. 18060 of 2015

Dated this the 22nd day of June, 2015

J U D G M E N T

The petitioner has approached this Court seeking a direction to the respondent to consider Exts.P7 and P11. Ext.P7 is the application for claiming refund of input tax remaining unadjusted at the end of the year. Ext.P11 is the request to grant Special Rebate and to issue Revised/Rectified order for the assessment year 2010-11. The order of assessment in question is of the year 2010-11. The petitioner's case is that, the materials used for manufacturing of medicines have suffered tax under Section 6(2) and the petitioner is entitled to credit by way of Special Rebate under Section 12(1) of the KVAT Act. The petitioner submitted that he has filed an application for refund. Without reference to the refund due, tax is demanded in the assessment order. In the meanwhile for the assessment year 2010-2011 CST assessment was done and revised by rectification. According to the petitioner demand was enhanced in Ext.P5 without any notice to him. Though the petitioner has grievance against the above order, he has not challenged the same in appropriate manner.

2. The only request made by the petitioner before this Court that Exts.P7 & P11 may be directed to be considered.

3. In the said circumstance, this Court direct the respondent to consider Exts.P7 and P11 within a period of two months. Till such time, recovery demanded based on Exts.P5 & P9 orders shall be deferred to. The petitioner shall produce Exts.P7 and P11 along with the judgment and writ petition before the respondent for compliance. The respondent is directed to dispose of Ext.P7 and P11 simultaneously within the time indicated as above.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

Pn