IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

WP(C).No. 19386 of 2015 (W)

PETITIONER(S):

V.M.SUBAIR, PROPRIETOR,
M/S ANUGRAHA TIMBER INDUSTRIES,
PERUMBAVOOR.

BY ADVS.SRI.P.S.SOMAN,
SMT.T.RADHAMANY.

RESPONDENT(S):
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1. ASSISTANT COMMISSIONER,
   DEPARTMENT OF COMMERCIAL TAXES,
   SPECIAL CIRCLE, PERUMBAVOOR-682 659.

2. THE DEPUTY COMMISSIONER (APPEALS),
   DEPARTMENT OF COMMERCIAL TAXES,
   COMMERCIAL TAX COMPLEX, ERNAKULAM-682 031.

3. INSPECTING ASSISTANT COMMISSIONER,
   DEPARTMENT OF COMMERCIAL TAXES,
   MUVATTUPUZHA-682 101.

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 19386 of 2015 (W)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1: TRUE COPY OF THE PRE ASSESSMENT NOTICE DATED 05/01/2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXT.P2; TRUE COPY OF THE REPLAY FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P3: TRUE COPY OF THE ASSESSMENT ORDER OF THE 1ST RESPONDENT DATED 28/02/2015.

EXT.P4: TRUE COPY OF THE APPEAL PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 20/03/2015.

EXT.P5: TRUE COPY OF THE APPLICATION FOR OUT OF TURN HEARING OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 20/03/2015.

EXT.P6: TRUE COPY OF THE APPLICATION FOR STAY FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 20/03/2015.

EXT.P7: TRUE COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER DATED 07/05/2015.

EXT.P8: TRUE COPY OF THE STAY ORDER NO. KVAT-718/2015 DATED 04/06/2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

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W.P.(C) No.19386 of 2015

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Dated this the 29th day of June, 2015

JUDGMENT

The petitioner, impugning assessment for the year 2007-2008, filed appeal. Along with the appeal, the petitioner moved an application for stay. In the stay application, a condition order was passed imposing condition of deposit of 30% of the demand.

2. The petitioner submits that the assessment under Section 25(1) of the Kerala Value Added Tax Act based on the turnover coming under the Central Sales Tax Act is not sustainable. The petitioner further submits that there was no turnover suppression and he admits that there is a defect in 'C Form' produced and he has paid the tax along with compounding fee. It is submitted that since there is no turnover suppression, there is no scope for an addition.

Taking note of the facts and circumstances, I am of the view that the nature of the demand, the appeal shall be disposed within a period of three months after issuing notice to the petitioner. Therefore, stay order is modified, there shall be an absolute stay till the disposal of the appeal.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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