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. 22326 of 2015 (M)

PETITIONER :

M/S. SVA STEEL RE-ROLLING MILLS NATTUKAL (PVT) LTD.,
V-980, NATTUKAL POST, CHITTUR TALUK, PALAKKAD,
REPRESENTED BY ITS DIRECTOR,SRI. R.ELANGOVAN.

BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN

RESPONDENT(S):
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1. THE ASSISTANT COMMISSIONER (KVAT),
COMMERCIAL TAXES, SPECIAL CIRCLE,
PALAKKAD- 678 001.

2. THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM- 682 015.

BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 22326 of 2015 (M)

<u>APPENDIX</u>

PETITIONER(S)' EXHIBITS

EXHIBIT P1. **COPY OF THE ASSESSMENT ORDER PASSED BY IST RESPONDENT FOR THE YEAR 2009-2010 DATED 30.3.2015.**

EXHIBIT P2. **COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 16.4.2015.**

EXHIBIT P3. **COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 16.4.2015.**

EXHIBIT P4. **COPY OF THE INTERIM ORDER PASSED BY THE 2ND RESPONDENT FOR THE YEAR 2009-10 DATED 27.6.2015.**

EXHIBIT P5. **COPY OF THE ARREAR NOTICE IN FORM NO.12A ISSUED BY 1ST REPONDENT FOR THE YEAR 2009-10 DATED 5.5.2015.**

RESPONDENT(S)' EXHIBITS: **NIL**
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/TRUE COPY/

P.A.TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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W.P.(C) No. 22326 of 2015

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Dated this the 24th day of July, 2015

JUDGMENT

The petitioner, impugning conditional order passed in the stay application, has approached this Court.

2. As against the assessment order 2009-2010, the petitioner preferred an appeal before the second respondent. The Assessing Authority rejected the return on the reason that the difference in purchase return under Section 13A of the Kerala Value Added Tax Act. The petitioner's case is that the difference is related to Excise Duty element written off under various heads. Therefore, if it is verified, the petitioner would not have mulcted with any liability to pay tax.

3. The Appellate Authority, in fact, adverted to the petitioner's contention and passed a reasoned order.

In that view of the matter, there is no infirmity with the condition imposed. However, taking note of the fact that substantial portion of the demand is also included interest, the impugned order is modified as payment of Rs.10 lakhs within one month from today. The petitioner shall abide by all other conditions.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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