IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

WP(C).No. 23578 of 2015 (V)

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PETITIONER(S) :
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DREAMEX WEAR (P) LTD.,
NEAR BIG BAZAR, 820(2), ENGLISH CHURCH ROAD,
11, PALAKKAD - 678 014, REPRESENTED BY ITS DIRECTOR,
SHRI.K.VENUGOPALA MENON.

BY SRI.T.M.SREEDHARAN (SENIOR ADVOCATE)
ADVS. SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN

RESPONDENT(S) :
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1. THE COMMERCIAL TAX OFFICER,
   1ST CIRCLE, PALAKKAD - 678 001.

2. THE DEPUTY COMMISSIONER,
   COMMERCIAL TAXES, PALAKKAD - 678 001.

3. THE ASSISTANT COMMISSIONER (APPEALS),
   DEPARTMENT OF COMMERCIAL TAXES, PALAKKAD - 678 001.

4. THE COMMERCIAL TAX INSPECTOR,
   COMMERCIAL TAXES CHECK POST, B.MANJESHWAR,
   KASARAGOD DISTRICT - 671 121.

BY SR.GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

**WP(C).No. 23578 of 2015 (V)**
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**APPENDIX**

**PETITIONER(S)' EXHIBITS :**
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**EXHIBIT P1:** **TRUE COPY OF ASSESSMENT ORDER ACCOMPANIED BY THE DEMAND NOTICE DATED 12.01.2015 PASSED BY THE FIRST RESPONDENT.**

**EXHIBIT P2:** **TRUE COPY OF MEMORANDUM OF APPEAL DATED 25.02.2015 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.**

**EXHIBIT P3:** **TRUE COPY OF STAY PETITION DATED 25.02.2015 SUBMITTED BY THE PETITIONER BEFORE THE THIRD RESPONDENT.**

**EXHIBIT P4:** **TRUE COPY OF DETENTION NOTICE NO.258/15-16 DATED 26.07.2015 ISSUED BY THE 4TH RESPONDENT.**

**RESPONDENT(S)' EXHIBITS :**
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**NIL**

**//TRUE COPY//**

**P.A.TO JUDGE.**

Msd.

**A.MUHAMED MUSTAQUE, J.**

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W.P.(C) No.23578 of 2015

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Dated this the 6th day of August, 2015

## JUDGMENT

The petitioner, as against assessment order for the year 2013-2014 filed an appeal before the third respondent. The petitioner also moved an application for stay. The petitioner approached this Court challenging detention notice under Section 47(4) of the Kerala Value Added Tax Act (for short, 'KVAT Act') on account of the non-payment of the demand based on the year 2013-2014. This Court is of the view that the goods shall be released to the petitioner on the following terms and conditions:

i. The petitioner shall remit Rs.40,000/- on or before 24.8.2015 and another sum of Rs.40,000/- on or before 25.9.2015.

ii. If the petitioner remits the above amount, entire recovery proceedings shall be stayed till the disposal of the appeal.

iii. The goods shall be released to the petitioner forthwith and they shall also execute an undertaking before the Authority that they will comply with the conditions as above.

iv. If the petitioner fails to comply with the conditions as above, the respondents are free to initiate coercive steps including detention of the future goods in terms of Section 47(4) of the KVAT Act.

Sd/-
**A.MUHAMED MUSTAQUE, JUDGE**

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