IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

WP(C).No. 25938 of 2015 (N)

PETITIONER(S):

M/S. GEON AIR AIR CONDITIONING &
REFRIGERATION MANUFACTURES (P) LTD.,
GEO INFOPART, KINFRA, INFOPARK P.O.,
KAKKANAD, REPRESENTED BY ITS
MANAGING DIRECTOR SRI.N.V. GEORGE.

BY ADVS. SRI.A.KUMAR,
SMTG.MINI.

RESPONDENT(S):
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1. **ASSISTANT COMMISSIONER (APPEALS),**
   DEPARTMENT OF COMMERCIAL TAXES,
   ERNAKULAM-682 018.

2. **COMMERCIAL TAX OFFICER,**
   IIND CIRCLE, KALAMASSERY-683 104.

3. **COLLECTOR/AUTHORIZED OFFICER,**
   INSPECTING ASSISTANT COMMISSIONER,
   DEPARTMENT OF COMMERCIAL TAXES,
   ERNAKULAM, KAKKANAD-682 030.

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 25938 of 2015 (N)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 COPY OF THE ASSESSMENT ORDER DATED 21/04/2015 PASSED BY THE N2ND RESP FOR THE ASSESSMENT YEAR 2011-2012.

EXT.P2 COPY OF THE APPEAL FILED AGAINST THE ORDER (KVAT) PASSED FOR THE ASSESSMENT YEAR 2011-2012.

EXT.P3 COPY OF THE STAY APPLICATION FOR THE ASSESSMENT YEAR 2011-2012.

EXT.P4 COPY OF THE REVENUE RECOVERY NOTICE FOR THE ASSESSMENT YEAR 2011-2012 DATED 02/07/2015 ISSUED BY THE 3RD RESPONDENT.

EXT.P5 COPY OF THE ORDER DATED 21/04/2015 PASSED BY THE 2ND RESPONDENT IN APPLICATION FOR STAY.

EXT.P6 COPY OF THE APPELLATE ORDER SETTING ASIDE THE ASSESSMENT ORDER FOR YEAR 2008-2009 DATED 01/03/2011.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 25938 of 2015

Dated this the 21st day of August, 2015

JUDGMENT

The petitioner, as against Ext.P1 assessment order preferred an appeal.

2. The learned counsel for the petitioner submits that the petitioner moved an application of stay and conditional order has been passed. The petitioner has not produced the conditional order.

3. However, it is submitted that they are directed to remit 30% of the demand. The petitioner submits that the issue is covered in favour of them by Ext.P6 Order of an Appellate Authority. Though, the Department has preferred a second appeal before the Tribunal, Ext.P6 Order, remains as covered issue. The issue is regarding the addition towards the revenue of export invoices. It is submitted that the substantial sale of the petitioner is to its sister concern located in UAE. Therefore, in the light of Ext.P6, Conditional Order ought not to have been passed.

4. The sustainability of writ petitioner's contention has to be considered during the final hearing of appeal. However, taking note of Ext.P6, this Court is of the view conditional has to be modified as a payment of Rs.2 lakhs within one month from today.

The writ petition is disposed of as above. No costs.

Sd/-
A. MUHAMED MUSTAQUE, JUDGE

bpr