IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

WP(C).No. 26860 of 2015 (F)

PETITIONER(S):

M/S. KAVAN HEALTHCARE SERVICES LIMITED,
CRA-121, NO.1382/A, MYSTICAL ROSE,
CHAKKUNGAL ROAD, PALARIVATTOM, KOCHI-682 025,
REPRESENTED BY ITS POWER OF ATTORNEY
HOLDER MR.BIJU VARGHESE.

BY ADVS.SMT.S.K.DEVI
SRI.SANTHOSH P.ABRAHAM

RESPONDENT(S):
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1. **THE COMMERCIAL TAX OFFICER,**
   DEPARTMENT OF COMMERCIAL TAXES, IIND CIRCLE,
   KALAMASSERY AT CIVIL STATION, KAKKANAD-682 030.

2. **THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL,**
   COMMERCIAL TAX COMPLEX, THEVARA, KOCHI-682 015.

3. **THE INSPECTING ASSISTANT COMMISSIONER,**
   DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM,
   KOCHI-682 030.

BY GOVERNMENT PLEADER SRI.LIJU V. STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 26860 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1. TRUE COPY OF THE ASSESSMENT ORDER NO.32071390942 DATED 14/10/2011 ISSUED BY THE 1ST RESPONDENT.

EXT.P2. TRUE COPY OF THE APPELLATE ORDER NO.KVATA 2995/11 & 3145/11 DATED 30/12/2014 OF THE FIRST APPELLATE AUTHORITY.

EXT.P3. TRUE COPY OF THE APPEAL DATED 6/4/2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P4. TRUE COPY OF THE ORDER IN INTP.NO. 116/2015 IN TA(VAT) NO.104/2015 DATED 27/6/2015 OF THE 2ND RESPONDENT.

EXT.P5. TRUE COPY OF THE COVERING LETTER DATED 31/7/2015 AND FORM NO.6 SURETY BOND PRODUCED BY THE PETITIONER.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.26860 of 2015

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Dated this the 7th day of September, 2015

<u>J U D G M E N T</u>

The petitioner, who is an assessee under the Kerala Value Added Tax Act had preferred an appeal and stay petition against the order of assessment under the said Act for the period April 2010 to March 2011. In the stay petition that was preferred along with the appeal, the 2nd respondent appellate Tribunal after taking note of the fact that, the petitioner had already remitted 50% of the tax amounts confirmed against him, granted a stay of recovery of the balance tax till disposal of the appeal, on condition that, the petitioner furnishes security for the balance tax within 30 days of the receipt of a copy of the order. In the writ petition, it is the case of the petitioner that, the petitioner could not furnish the security as directed by the appellate authority within the time granted in Ext.P4 order. It is his case that, he would require time until 10th October, 2015 for compliance with the said condition.

2. I have heard the learned counsel appearing on behalf of the petitioner and also the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar and taking note of the said contention of counsel for the petitioner, I permit the petitioner to comply with the requirements of furnishing a security for the balance tax as directed in Ext.P4 order on or before 10.10.2015. To enable the petitioner to carry on his business activities in the meanwhile, I also direct the respondents to permit the petitioner to access the KVATIS site for activities in connection with the running of his business. I make it clear that, if the petitioner does not comply with the directions regarding furnishing of security in Ext.P4 order within the time granted above, then he will be will lose the benefit of this judgment and the respondents will be free to continue the proceedings from the stage at which they presently stand.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns