IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

WP(C).NO. 28010 OF 2015 (A)

PETITIONER(S):

M/S. THOUFEEQUE WEDDING CENTRE
K.S.ROAD, NARIKUNNI, CALICUT-673 585
REPRESENTED BY IT'S MANAGING PARTNER MRS.SUHARA N.K.

BY ADVS.SMT.K.LATHA
SMT.M.K.HAJARA
SRI.C.RAMACHANDRAN

RESPONDENT(S):

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1. STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVT. OF KERALA
SECRETARIAT, THIRUVANANTHAPURAM.695 001.

2. THE COMMERCIAL TAX OFFICER
(IVTH CIRCLE, COMMERCIAL TAXES, KOZHIKODE-673 501.

3. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, KOZHIKODE.673 501.

4. THE SALES TAX OFFICER (RECOVERY)
OFFICE OF THE DEPUTY COMMISSIONER, COMMERCIAL TAXES
KOZHIKODE-6.

BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 28010 OF 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

P1- THE TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2014-2015 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER DATED 30.06.2015.

P2- THE TRUE COPY OF THE APPEAL IN FORM NO.29 ALONG WITH GROUND OF APPEAL FILED BY THE PETITIONER BEFORE THE THIRD RESPONDENT AGAINST THE P1 ASSESSMENT ORDER FOR THE YEAR 2014-2015.

P3- THE TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER IN THE P2 APPEAL.

P4- THE TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 26.8.2015 BASED ON THE P1 ASSESSMENT ORDER FOR THE YEAR 2014-2015 ISSUED BY THE FOURTH RESPONDENT TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.28010 of 2015

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Dated this the 16th day of September, 2015

J U D G M E N T

Against Ext.P1 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P2 appeal and Ext.P3 stay petition before the 3rd respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued through Ext.P4 revenue recovery notice, for recovery of the amounts confirmed by Ext.P1 assessment order.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I dispose the writ petition with the following directions:

i. The 3rd respondent shall consider and pass orders on Ext.P3 stay petition within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps pursuant to Ext.P4 revenue recovery notice shall be kept in abeyance till orders are passed by the 3rd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 3rd respondent shall be a reasoned one adverting to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns