

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

WP(C).No. 28491 of 2015 (J)

PETITIONER(S):

**M/S.GOUSIA AGENCIES , ANNAKKAYAM,
MALAPPURAM DISTRICT, PIN - 676 121
REPRESENTED BY ITS MANAGING PARTNER
JASEERMON PALOLI, AGED 34 YEARS**

**BY ADVS.SRI.P.N.DAMODARAN NAMBOODIRI
SMT.K.P.RANI
SRI.P.UNNIKRISHNAN (THRISSUR)**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
DEPARTMENT OF COMMERCIAL TAXES
MANJERI, MALAPPURAM - 676 121**
- 2. THE DEPUTY COMMISSIONER (APPEALS)
DEPARTMENT OF COMMERCIAL TAXES
ERNAKULAM - 682 011**
- 3. DEPUTY TAHSILDAR, REVENUE RECOVERY
TIRURANGADI, MALAPPURAM - 676 306**

R BY GOVERNMENT PLEADER, SRI. LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
18-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 TRUE COPY OF THE ASSESSMENT ORDER No.32100459052/2013-14 DATED 23.07.2014 FOR THE YEAR 2013-14 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXT.P2 TRUE COPY OF THE RECTIFICATION APPLICATION DATED 19.08-2014 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P3 TRUE COPY OF THE RECTIFICATION ORDER No.32100459052/2013-14 DATED 25.08.2014 DATED 25.08.2014 PASSED BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXT.P4 TRUE COPY OF THE FIRST APPEAL DATED 31.08.2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT AGAINST EXHIBIT P1 ASSESSMENT ORDER FOR THE YEAR 2013-14
- EXT.P5 TRUE COPY OF THE STAY PETITION DATED 31.08.2014 FOR THE YEAR 2013-14 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT AGAINST EXHIBIT - P1 ASSESSMENT ORDER FOR THE YEAR 2013-14
- EXT.P6 TRUE COPY OF THE CHALAN No.176 DATED 16.01.2015 REMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P7 TRUE COPY OF THE SECURITY BOND IN FORM 16A DATED 16.01.2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P7A TRUE COPY OF THE POSSESSION CERTIFICATE No.7028/2014 DATED 06.11.2014 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P7B TRUE COPY OF THE TAX RECEIPT No.7946793 DATED 06.08.2014 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P8 TRUE COPY OF THE REVENUE RECOVERY NOTICE No.2015/552/10/600 DATED 08.09.2015 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.
- EXT.P9 TRUE COPY OF THE JUDGMENT No.WP(C) No.15820/2015 DATED 28.05.2015 ISSUED BY HON.BLE THIS COURT.

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 28491 of 2015

Dated this the 18th day of September, 2015

JUDGMENT

Against Ext.P1 assessment order, as modified by Ext.P3 rectification order, the petitioner preferred Ext.P4 appeal and Ext.P5 stay petition before the 2nd respondent. The petitioner also remitted 1/3rd of the tax amount confirmed against him by the assessment orders and also furnished security bond for the balance amount as evidenced by Exts.P6 and P7 challan and security bond respectively. It is the contention of the petitioner that the respondents are initiating proceedings under the Revenue Recovery Act for recovery of the balance amounts of tax confirmed against the petitioner by the assessment order, without considering the appeal preferred by the petitioner.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ petition with a direction to the 2nd respondent to consider and pass orders on Ext.P4 appeal, after hearing the petitioner, within a

period of two months from the date of receipt of a copy of this judgment. Taking note of the fact that the petitioner has already paid 30% of the amount confirmed against him by the assessment order and furnished security for the balance amounts, there will be a direction to the respondents to keep in abeyance recovery steps for recovery of the balance amount, till such time as orders are passed by the 2nd respondent as directed and communicated the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das