IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

WP(C).No. 29281 of 2015 (I)

PETITIONER(S):

ARATHY RUBBER PRODUCTS,
KARIMKUNNAM, THODUPUZHA,
REPRESENTED BY ITS MANAGING PARTNER,
ZACHARIA STEPHEN

BY ADVS.SRI.K.I.MAYANKUTTY MATHER
SRI.R.JAIKRISHNA

RESPONDENT(S):
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1. COMMERCIAL TAX OFFICER, 2ND CIRCLE, THODUPUZHA-685584.

2. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOTTAYAM-686001.

3. INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
IDUKKI AT KATTAPPANA, PIN-685508.

4. THE COMMISSIONER,
OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES,
TAX TOWERS, 8TH FLOOR, KARAMANA, THIRUVANANTHAPURAM-695002.

5. STATE OF KERALA,
REPRESENTED BY SECRETARY (TAXES B DEPARTMENT),
SECRETARIAT, THIRUVANANTHAPURAM-695001.

BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 29281 of 2015 (I)

APPENDIX

PETITIONERS' EXHIBITS

P1: COPY OF THE SRO 804/2008 PROMULGATED BY THE STATE GOVERNMENT UNDER SECTION 8(5) OF THE CENTRAL SALES TAX ACT

P2: COPY OF THE ASSESSMENT ORDER FOR THE AY-2008-2009 (KVAT)

P3: COPY OF THE ASSESSMENT ORDER FOR THE AY-2008-2009 (CST)

P4: COPY OF THE ASSESSMENT ORDER FOR THE AY-2009-2010 (CST)

P5: COPY OF THE RECTIFICATION PETITION FILED BY THE PETITIONER (AY-2008-2009)(CST)

P5(A): COPY OF THE RECTIFICATION PETITION FILED BY THE PETITIONER (AY-2009-2010)(CST)

P6: COPY OF THE RECTIFED ASSESSMENT ORDER (AY-2008-2009)(KVAT)

P6(A): COPY OF THE RECTIFED ASSESSMENT ORDER (AY-2008-2009)(CST)

P7: COPY OF THE RECTIFED ASSESSMENT ORDER (AY-2009-2010)(KVAT)

P7(A): COPY OF THE RECTIFED ASSESSMENT ORDER (AY-2009-2010)(CST)

P8: COPY OF THE NOTIFICATION IN SRO 753/2011

P9: COPY OF THE CIRCULAR NO.17/2013

P10: COPY OF THE APPEAL FILED BEFORE THE R2 (AY-2008-2009)(CST)

P11: COPY OF THE APPEAL FILED BEFORE THE R2 (AY-2009-2010)(CST)

P12: COPY OF THE DEMAND NOTICE ISSUED BY THE R3 (AY-2008-2009)(CST)

P12(A): COPY OF THE DEMAND NOTICE ISSUED BY THE R3 (AY-2009-2010)(CST)

P13: COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE R2 (AY-2008-2009)(CST)

P13(A):COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE R2 (AY-2000-2010)(CST)

P14: COPY OF THE COMMUNICATION GIVEN BY THE SECRETARY (TAXES) TO THE PETITIONER (AY-2008-2009).

RESPONDENTS' EXHIBIT
----------------------------------- NIL.

/ TRUE COPY /

PJ P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.29281 of 2015

....

Dated this the 28th day of September, 2015

J U D G M E N T

Against Exts.P6(a), and P7(a) rectified assessment orders under the CST Act, the petitioner has preferred Exts.P10 and P11 appeals and Exts.P13 and P13(a) stay petitions before the 2nd respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued for recovery of the amounts confirmed by Exts.P6(a), and P7(a) rectified assessment orders.

2. I have heard the learned counsel for the petitioner and also 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 2nd respondent shall consider and pass orders on Exts.P13 and P13(a) stay petitions within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.
>
> ii. Recovery steps for recovery of amounts confirmed against petitioner by Exts.P6(a) and

P7(a) rectified assessment orders shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns