IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

WP(C).No. 30356 of 2015 (T)

PETITIONER(S):

M/S. LULU WEDDING CENTRE,
MARTIN ROAD, KARADI JUNCTION,
THAMARASSERRY, REPRESENTED BY
ITS MANAGING PARTNER K.Y. JAISAL.

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

RESPONDENT(S):
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1. THE STATE OF KERALA,
   REPRESENTED BY CHIEF SECRETARY,
   SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2. THE COMMERCIAL TAX OFFICER,
   IVTH CIRCLE, CALICUT-673 305.

3. THE SALES TAX OFFICER (RECOVERY),
   COMMERCIAL TAXES, SALES TAX COMPLEX,
   JAWAHAR NAGAR, CALICUT-673 006.

BY GOVT. PLEADER SRI.LIJU V.STEPHEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 30356 of 2015 (T)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	**COPY OF THE NOTICE U/S.25(1) OF THE KVAT ACT 2003 FOR THE YEAR 2013-2014 DATED 03/08/2015 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.**
EXT.P2	**COPY OF THE REPLY DATED 10/08/2015 FILED BY THE PETITIONER BEFORE THE SECOND RESPONDENT AGAINST THE P1 PRE ASSESSMENT NOTICE.**
EXT.P3	**COPY OF THE ASSESSMENT ORDER NO.32110965044/2013-14 DATED 31/08/2015 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.**
EXT.P4	**COPY OF THE DEMAND NOTICE DATED 31/10/2015 BASED ON THE P3 ASSESSMENT ORDER FOR THE YEAR 2013-2014 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.**

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 30356 of 2015

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Dated this the 7th day of October, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P3 assessment order passed in relation to the petitioner for the assessment year 2013-2014. The grievance of the petitioner against Ext.P3 order is that the said order was passed without considering the request put forward by the petitioner for an adjournment on the date fixed for hearing. It is therefore, contended that Ext.P3 is vitiated by a non compliance with the rules of natural justice.

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

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that, although the petitioner has produced as Ext.P2, a copy of the letter dated 10.08.2015 that is stated to have been sent to the 2nd respondent., In Ext.P3 order, there is no reference to such a letter being

received by the 2nd respondent. The petitioner has also not produced any material to show that Ext.P2 letter was in fact, served on the 2nd respondent before the date of Ext.P3 order. Under the said circumstances, I see no reason to disbelieve the averments in Ext.P3 order, that the petitioner had not availed of the opportunity of hearing or filed any filed any reply to the notice. The challenge in the writ petition against Ext.P3 order, therefore, fails and is hereby rejected. The petitioner is relegated to the alternate remedy of filing an appeal against Ext.P3 order before the appellate authority under the Kerala Value Added Tax Act.

The learned counsel for the petitioner submits that the petitioner would require ten days time to approach the appellate authority against Ext.P3 order. Taking note of the said submission I grant a stay of recovery proceedings pursuant to Ext.P3 order, for a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das