

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

WP(C).No.30694 of 2015 (J)

PETITIONER :

M/S.SAMSON & SONS (P) LTD.,
(PRESENTLY KNOWN AS SAMSON & SONS
BUILDERS & DEVELOPERS (P) LTD), MUTTADA,
THIRUVANANTHAPURAM – 695 025,
REPRESENTED BY ITS FINANCE MANAGER
–SELVAKUMAR.V.

BY ADVS.SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH MENON
SRI.BENNY P.THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURYAN THOMAS
SRI.RAJA KANNAN

RESPONDENTS :

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM – 695 001.
2. THE ASSISTANT COMMISSIONER,
WORKS CONTRACT, COMMERCIAL TAXES,
KARAMANA,
THIRUVANANTHAPURAM – 695002.
3. THE INTELLIGENCE OFFICER,
INVESTIGATION BRANCH-I, COMMERCIAL TAXES,
KARAMANA,
THIRUVANANTHAPURAM – 695002.
4. THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES,
KARAMANA,
THIRUVANANTHAPURAM – 695002.

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5. THE STATE BANK OF TRAVANCORE,
MEDICAL COLLEGE BRANCH,
THIRUVANANTHAPURAM – 695011, REPRESENTED BY ITS MANAGER.
6. THE FEDERAL BANK LIMITED,
MUTTADA,
THIRUVANANTHAPURAM – 695025, REPRESENTED BY ITS MANAGER.
7. THE PUNJAB NATIONAL BANK,
STATUE JUNCTION BRANCH,
THIRUVANANTHAPURAM – 695001, REPRESENTED BY ITS MANAGER.
8. THE AXIS BANK,
PATTOM BRANCH,
THIRUVANANTHAPURAM – 695004, REPRESENTED BY ITS MANAGER.

BY GOVERNMENT PLEADER SRI.V.K.RAFEEQ
BY SRI.SANTHEEP ANKARATH, SC, PUNJAB NATIONAL BANK
BY SRI.JAWAHAR JOSE, STATE BANK OF TRAVANCORE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBIT :-

- EXT.P1 : COPY OF THE ORDER DTD.27.2.2015 PASSED BY THE 3RD RESPONDENT U/S.67 OF THE KVAT ACT, FOR THE YEAR 2011-12.
- EXT.P2 : COPY OF THE REVISION MEMORANDUM DTD.1.7.2015 (WITHOUT ANNEXURES) FILED BY THE PETITIONER BEFORE THE 4TH RESPONDENT, AGAINST EXT.P1 ORDER.
- EXT.P3 : COPY OF THE STAY PETITION DTD.1.7.2015 FILED BY THE PETITIONER AGAINST EXT.P1 ORDER.
- EXT.P4 : COPY OF THE GARNISHEE NOTICES FOR ATTACHMENT DTD.6.10.2015 ISSUED BY THE 2ND RESPONDENT UNDER THE KVAT ACT, TO THE 5TH RESPONDENT.
- EXT.P5 : COPY OF THE GARNISHEE NOTICES FOR ATTACHMENT DTD.6.10.2015 ISSUED BY THE 2ND RESPONDENT UNDER THE KVAT ACT, TO THE 6TH RESPONDENT.
- EXT.P6 : COPY OF THE GARNISHEE NOTICES FOR ATTACHMENT DTD.6.10.2015 ISSUED BY THE 2ND RESPONDENT UNDER THE KVAT ACT, TO THE 7TH RESPONDENT.

RESPONDENT'S EXHIBITS :- NIL.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C)No.30694 of 2015

Dated this the 8th day of October, 2015

JUDGMENT

The petitioner, who is an assessee under the 2nd respondent is facing penalty proceedings initiated by the 3rd respondent under the provisions of the KVAT Act pertaining to the year 2011-12. Ext.P1 is the order of penalty issued by the 3rd respondent for the year 2011-12. Against Ext.P1 order the petitioner filed Ext.P2 revision before the 4th respondent along with Ext.P3 stay petition. Now the grievance of the petitioner is that during the pendency of Exts.P2 and P3 the 2nd respondent issued Exts.P4 to P6 garnishee notices for attachment, for collecting the penalty demanded in Ext.P1 order. The petitioner would also submit that similar garnishee notice has also been issued in respect of the bank account maintained by it in the 8th respondent bank. It is in such circumstances the petitioner has approached before this Court seeking various reliefs.

2. Heard the learned counsel for the petitioner, learned Government Pleader appearing for respondents 1 to 4, the learned Standing Counsel for the 5th respondent and also the learned Standing Counsel for the 7th respondent.

3. It is aggrieved by Ext.P1 penalty order pertaining to the year 2011-12 issued by the 3rd respondent, the petitioner filed Ext.P2 revision along with Ext.P3 stay petition before the 4th respondent, who is the revisional authority. During the pendency of the aforesaid revision the 2nd respondent has initiated garnishee proceedings against the petitioner based on Exts.P4 to P6 garnishee notices for attachment, for collecting the penalty amount demanded in Ext.P1 order.

Considering the fact that Ext.P3 stay petition filed by the petitioner is pending consideration before the 4th respondent I deem it appropriate to dispose of this writ petition directing the 4th respondent to consider and pass appropriate orders on Ext.P3 stay petition, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a certified copy of this judgment, with notice to the petitioner. Till such time all recovery proceedings pursuant to Exts.P4 to P6 garnishee notices including any garnishee proceedings initiated in respect of the bank account maintained by the petitioner in the 8th respondent bank shall be kept in abeyance.

Sd/-
ANIL K.NARENDRAN, JUDGE

skj