IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

WP(C).No. 31206 of 2015 (A)

PETITIONER(S) :

M/S.SREI EQUIPMENT FINANCE PVT LTD.,
PRATHEEKSHA, 32/2475 AI, PALARIVATTOM,
REPRESENTED BY ITS CHIEF MANAGER-INDIRECT TAXATION.

BY ADVS.SRI.SAJI VARGHESE
SMT.MARIAM MATHAI

RESPONDENT(S) :
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1. THE COMMERCIAL TAX OFFICER,
   DEPT. OF COMMERCIAL TAXES, 2ND CIRCLE, KALAMASSERY,
   AT CIVIL STATION, KAKKANADU, PIN- 682 080.

2. THE DEPUTY COMMISSIONER (APPEALS),
   OFFICE OF THE DEPUTY COMMISSIONER (APPEALS),
   COMMERCIAL TAXES, ERNAKULAM, PIN- 682 015.

3. THE INSPECTING ASSISTANT COMMISSIONER
   (AUTHORIZED OFFICER), COMMERCIAL TAXES,
   ERNAKULAM, PIN- 682 015.

BY GOVERNMENT PLEADER SMT.K.T.LILLY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 31206 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS :
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EXHIBIT P1: TRUE COPY OF THE ASSESSMENT ORDER PASSED BY THE FIRST RESPONDENT DATED 15.06.2015.

EXHIBIT P2: TRUE COPY OF THE NOTICE OF DEMAND IN FORM NO.12 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER DEMANDING AN AMOUNT OF RS.10,45,308/-

EXHIBIT P3: TRUE COPY OF THE APPEAL DATED 04.08.2015 FILED BY THE PETITIONER BEFORE THE SECONE RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.

EXHIBIT P5: TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 26.09.2015 ISSUED BY THE 5TH RESPONDENT FOR RECOVERY OF THE DISPUTED AMOUNT.

RESPONDENT(S)' EXHIBITS :
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 31206 of 2015
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Dated this the 14th day of October, 2015

JUDGMENT

The Petitioner is a registered dealer under the Kerala Value Added Tax Act, 2003, hereinafter referred to as the "KVAT Act'. Against Ext.P1 order of assessment passed under the KVAT Act, the petitioner preferred Ext.P3 appeal and Ext.P4 stay petition before the 2nd respondent. It is the case of the petitioner that even before the consideration of the stay petition by the 2nd respondent, recovery steps have been initiated against him through Ext.P5 revenue recovery notice, for recovery of the amount confirmed in the assessment order. The grievance of the petitioner is that even before considering the stay petition, the respondents are taking steps to recover the amounts confirmed against the petitioner by Ext.P1 order.

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 stay petition, preferred by the petitioner before him, within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner. Coercive steps pursuant to Ext.P5 notice shall be kept in abeyance till such time as the 2nd respondent passes orders, as directed, in Ext.P4 stay petition and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /14.10.15