IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

WP(C).No. 32912 of 2015 (L)

PETITIONER(S):

**M/S. KERALA STATE INDUSTRIAL DEVELOPMENT
CORPORATION LTD., KESTON ROAD, KOWDIAR,
THIRUVANANTHAPURAM-695 003,
REPRESENTED BY SMT.V.R. USHA,
ASST. GENERAL MANAGER & HEAD (LEGAL).**

**BY SRI.T.M.SREEDHARAN, SENIOR ADVOCATE.
ADVS. SRI.V.P.NARAYANAN,
SMT.DIVYA RAVINDRAN.**

RESPONDENT(S):
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1. **THE JOINT COMMISSIONER OF INCOME TAX,
RANGE-1, AYYAKAR BHAVAN, KOWDIAR,
THIRUVANANTHAPURAM-695 003.**

2. **THE COMMISSIONER OF INCOME TAX (APPEALS),
AAYAKAR BHAVAN, KOWDIAR,
THIRUVANANTHAPURAM-695 003.**

3. **THE ASSISTANT COMMISSIONER INCOME TAX,
CIRCLE-1(1), AYAKKAR BHAVAN, KOWDIAR,
THIRUVANANTHAPURAM-695 003.**

BY ADV. SRI.K.M.V. PANDALAI, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 32912 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 COPY OF THE ASSESSMENT ORDER DATED 31/03/2014 ALONG WITH DEMAND NOTICE PASSED BY THE 1ST RESPONDENT.

EXT.P2 COPY OF THE MEMORANDUM OF APPEAL DATED 05/04/2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P3 COPY OF THE JUDGMENT DATED 27/05/2014 IN WP(C).NO.13245/2014-E OF THIS HONOURABLE COURT.

EXT.P4 COPY OF THE STAY ORDER DATED 17/07/2014 ISSUED BY THE 2ND RESPONDENT.

EXT.P5 COPY OF THE COMMUNICATION DATED 23/07/2014 ISSUED BY THE 3RD RESPONDENT.

EXT.P6 COPY OF THE NOTICE NO.AAACK9434D/SPL.RGE/TVM/2015-16 DATED 13/10/2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 32912 of 2015
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Dated this the 29th day of October, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P6 demand notice, that has been issued under the Income Tax Act, to the petitioner for various assessment years including the assessment year 2011-12. In the writ petition, the petitioner is aggrieved only by the demand for the assessment year 2011-12. It is the case of the petitioner that against the assessment order for the said year, he had preferred an appeal before the 2nd respondent appellate authority. In a stay petition, that was filed along with the appeal, the appellate authority by Ext.P4 order granted a stay of recovery of the amounts confirmed against the petitioner for the said assessment year on condition that the petitioner remitted an amount of 10% of the confirmed demand. Ext.P4 order, however, stated that the petitioner would not be treated as an assessee in default with regard to the balance 90% of the demand till 31.1.2015 or till the disposal of the appeal, whichever is earlier. It is the contention of the learned Senior counsel for the petitioner that the appeal that was preferred as early as in April, 2014, has not been disposed till date, whereas by virtue of the order in Ext.P4, the stay that was granted to the petitioner expired on 31.1.2015. It is thereafter, that Ext.P6 demand notice was served on the petitioner, which is impugned in the present writ petition.

2. I have heard the learned senior 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 as also the submissions made across the bar, and taking note of the submission of the learned Senior Counsel for the petitioner that the amount of Rs.29,59,163/- that represented 10% of the demand outstanding against the petitioner at the time when Ext.P4 order was passed, has already been paid by the petitioner, I direct the 2nd respondent appellate authority to consider and pass final orders in the appeal preferred by the petitioner for the assessment year 2011-12, within a period of three months from the date of receipt of a copy of this judgment. I make it clear that, till such time as the 2nd respondent passes orders as directed and communicates the same to the petitioner, coercive steps for recovery of amounts, confirmed against the petitioner for the assessment year 2011-12, including further steps pursuant to Ext.P6 for the said year, shall be kept in abeyance. The petitioner

shall produce a copy of the writ petition, together with a copy of this judgment before the 2^{nd} respondent for further action.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /29.10.15