IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WP(C).No. 33159 of 2015 (T)

PETITIONER(S) :

SRI.SHAIJU T.,
PROPRIETOR OF M/S.GAYATHRI STEEL FURNITURE,
THALASSERY ROAD, PERODE, NADAPURAM,
KOZHIKODE DISTRICT.

BY ADV. SRI.N.K.SANATH KUMAR

RESPONDENT(S) :
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1. STATE OF KERALA,
   REPRESENTED BY THE SECRETARY, DEPARTMENT OF
   COMMERCIAL TAXES, THIRUVANANTHAPURAM- 695 001.

2. COMMERCIAL TAX OFFICER,
   VADAKARA- 673 101.

3. DEPUTY COMMISSIONER (APPEALS),
   DEPARTMENT OF COMMERCIAL TAXES, KOZHIKODE- 673 006.

4. SALES TAX OFFICER (RECOVERY),
   O/O.DEPUTY COMMISSIONER, COMMERCIAL TAXES
   DEPARTMENT, KOZHIKODE- 673 006.

BY GOVERNMENT PLEADER SMT.LILLY.K.T

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 33159 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF ASSESSMENT ORDER DATED 30.11.2014.

EXHIBIT P2: TRUE COPY OF DEMAND NOTICE DATED 16.12.2014.

EXHIBIT P3: TRUE COPY OF ASSESSMENT ORDER DATED 30.11.2014.

EXHIBIT P4: TRUE COPY OF DEMAND NOTICE DATED 16.12.2014.

EXHIBIT P5: TRUE COPY OF APPEAL MEMORANDUM DATED 21.02.2015.

EXHIBIT P6: TRUE COPY OF APPEAL MEMORANDUM DATED 21.02.2015.

EXHIBIT P7: TRUE COPY OF STAY PETITION DATED 21.02.2015.

EXHIBIT P8: TRUE COPY OF STAY PETITION DATED 21.02.2015.

EXHIBIT P9: TRUE COPY OF RR NOTICE NO.RRC6/14-15 DATED 03.02.2015.

EXHIBIT P10: TRUE COPY OF RR NOTICE NO.RRC6/14-15 DATED 03.02.2015.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33159 OF 2015

Dated this the 30th day of October, 2015

J U D G M E N T

Against Exts.P1 and P3 assessment orders under the Kerala Value Added Tax Act, the petitioner has preferred Exts.P5 and P6 appeals and Exts.P7 and P8 stay petitions before the 3rd respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued through Exts.P9 and P10 revenue recovery notices for recovery of the amounts confirmed by Exts.P1 and P3 assessment orders.

2. Heard the learned counsel for the petitioner and 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 3rd respondent shall consider and pass orders on Exts.P7 and P8 stay petitions within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps pursuant to Exts.P9 and P10 revenue recovery notices shall be kept in abeyance till orders are passed by the 3rd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 3rd respondent shall be a reasoned one adverting to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/.30.10.15