IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

WP(C).No. 33420 of 2015 (B)

PETITIONER(S):

M/S. PARAMOUNT AUTOZONE,
16/550(9), KTV TOWER, WEST FORT ROAD,
PALAKKAD, REPRESENTED BY ITS PARTNER,
ASHA WILSON.

BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON

RESPONDENT(S):
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1. COMMERCIAL TAX OFFICER,
   2ND CIRCLE, PALAKKAD-678 001.

2. ASST. COMMISSIONER (APPEALS)
   DEPARTMENT OF COMMERCIAL TAXES, PALAKKAD-678 001.

3. INSPECTING ASST. COMMISSIONER,
   DEPARTMENT OF COMMERCIAL TAXES, PALAKKAD-678 001.

BY GOVERNMENT PLEADER SMT.LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 33420 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : **COPY OF ORDER ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER FOR THE YEAR 2013-14.**

P1(A) : **COPY OF ORDER ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER FOR THE YEAR 2013-14.**

P2 : **COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**

P2(A) : **COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**

P3 : **COPY OF ORDER ISSUED BY THE 2ND RESPONDENT.**

P3(A) : **COPY OF ORDER ISSUED BY THE 2ND RESPONDENT.**

P4 : **COPY OF LETTER FROM THE CONSIGNEE ORDER ISSUED BY THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.33420 of 2015

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Dated this the 3rd day of November 2015

<u>JUDGMENT</u>

The challenge in the writ petition is against Exts.P3 and P3(a) conditional orders of stay that were passed by the 2nd respondent in appeals preferred by the petitioner against the orders of assessment under the KVAT Act, for the assessment years 2013-14 and 2014-15. The grievance of the petitioner in the writ petition is essentially that while passing Exts.P3 and P3(a) orders, the 2nd respondent did not exercise its discretion validly.

2. I have heard the learned counsel for the petitioner and also the learned Government Pleader 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 in Exts.P3 and P3(a) orders, the 2nd respondent has considered the contentions put forth by the petitioner with regard to the purchases made at concessional rate of tax under the CST Act and it is after finding that a detailed verification of the books of account was necessary for going into the aspects pointed out by the petitioner, and the

petitioner had not produced his books of account before the 2nd respondent, that the 2nd respondent found that only a conditional order of stay could be passed in the matter. On going through Exts.P3 and P3(a) orders of the 2nd respondent, I see no ground to interfere with the same in these proceedings under Article 226 of the Constitution of India. Therefore, I dismiss the writ petition in its challenge against the said orders.

Counsel for the petitioner would seek some time to comply with the directions in Exts.P3 and P3(a) orders. Taking into account the plea of financial hardship raised by the petitioner, I direct that if the petitioner complies with the directions in Ext.P3 and P3(a) orders within a period of three weeks from today, then the same shall be treated as in compliance with Exts.P3 and P3(a) orders and the 2nd respondent shall thereafter proceed to consider the appeals preferred by the petitioner on merits.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/