IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

WP(C).No. 33686 of 2014 (I)

PETITIONER(S):

M/S. COFFEE BOARD,
NO 1 AMBEDKAR VEEDHI
BANGALORE 560 001 REPRESENTED BY SECRETARY
BRANCH: (SATHRAM BUILDING, EAST NADA
GURUVAYUR, THRISSUR)

BY ADVS.SRI.ANIL D. NAIR
SMT.C.S.SULEKHA BEEVI
SRI.R.SREEJITH
SMT.ROSIE ATHULYA JOSEPH
KUM.SOUMYA PRAKASH

RESPONDENT(S):
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1. THE COMMERCIAL TAX OFFICER,
   CHAVAKKAD.

2. DEPUTY COMMISSIONER(APPEALS),
   COMMERCIAL TAXES,
   ERNAKULAM-282 030.

3. STATE OF KERALA,
   REPRESENTED BY ITS SECRETARY, TAXES,
   THIRUVANANTHAPURAM - 695 001.

BY SENIOR GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1 TRUE COPY OF THE ASSESSMENT ORDER DATED 14-03-2014 FOR THE YEAR 1984-1985 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.

EXHIBIT P2 TRUE COPY OF THE ASSESSMENT ORDER DATED 14-03-2014 FOR THE YEAR 1985-1986 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.

EXHIBIT P3 TRUE COPY OF THE ASSESSMENT ORDER DATED 14-03-2014 FOR THE YEAR 1986-1987 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.

EXHIBIT P4 TRUE COPY OF THE ASSESSMENT ORDER DATED 14-03-2014 FOR THE YEAR 1987-1988 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.

EXHIBIT P5 TRUE COPY OF THE ASSESSMENT ORDER DATED 14-03-2014 FOR THE YEAR 1988-1989 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.

EXHIBIT P6 TRUE COPY OF THE ASSESSMENT ORDER DATED 14-03-2014 FOR THE YEAR 1989-1990 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.

EXHIBIT P7 TRUE COPY OF THE ASSESSMENT ORDER DATED 14-03-2014 FOR THE YEAR 1990-1991 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.

EXHIBIT P8 TRUE COPY OF THE ASSESSMENT ORDER DATED 14-03-2014 FOR THE YEAR 1994-1995 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.

EXHIBIT P9 TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE SECOND RESPONDENT FOR THE A.Y 1984-1985.

EXHIBIT P10 TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE SECOND RESPONDENT FOR THE A.Y 1985-1986.

EXHIBIT P11 TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE SECOND RESPONDENT FOR THE A.Y 1986-1987.

EXHIBIT P12 TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE SECOND RESPONDENT FOR THE A.Y 1987-1988.

EXHIBIT P13 **TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE SECOND RESPONDENT FOR THE A.Y 1988-1989.**

EXHIBIT P14 **TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE SECOND RESPONDENT FOR THE A.Y 1989-1990.**

EXHIBIT P15 **TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE SECOND RESPONDENT FOR THE A.Y 1990-1991.**

EXHIBIT P16 **TRUE COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE SECOND RESPONDENT FOR THE A.Y 1994-1995.**

EXHIBIT P17 **TRUE COPY OF THE ORDER DATED 10-10-2014 PASSED BY THE SECOND RESPONDENT FOR THE A.Y 1984-1985.**

EXHIBIT P18 **TRUE COPY OF THE ORDER DATED 10-10-2014 PASSED BY THE SECOND RESPONDENT FOR THE A.Y 1985-1986.**

EXHIBIT P19 **TRUE COPY OF THE ORDER DATED 10-10-2014 PASSED BY THE SECOND RESPONDENT FOR THE A.Y 1986-1987.**

EXHIBIT P20 **TRUE COPY OF THE ORDER DATED 10-10-2014 PASSED BY THE SECOND RESPONDENT FOR THE A.Y 1987-1988.**

EXHIBIT P21 **TRUE COPY OF THE ORDER DATED 10-10-2014 PASSED BY THE SECOND RESPONDENT FOR THE A.Y 1988-1989.**

EXHIBIT P22 **TRUE COPY OF THE ORDER DATED 10-10-2014 PASSED BY THE SECOND RESPONDENT FOR THE A.Y 1989-1990.**

EXHIBIT P23 **TRUE COPY OF THE ORDER DATED 10-10-2014 PASSED BY THE SECOND RESPONDENT FOR THE A.Y 1990-1991.**

EXHIBIT P24 **TRUE COPY OF THE ORDER DATED 10-10-2014 PASSED BY THE SECOND RESPONDENT FOR THE A.Y 1994-1995.**

RESPONDENT(S)' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33686 OF 2014

Dated this the 12th day of January, 2015

J U D G M E N T

The petitioner is a statutory body constituted under the Coffee Act, 1942. It is an assessee before the 1st respondent under the Central Sales Tax Act. Against the assessment orders for the years 1984-1985 to 1990-1991 and 1994-1995, under the CST Act, the petitioner had preferred appeals and stay petitions before the 2nd respondent. By Exts.P17 to P24 orders, the 2nd respondent has disposed the stay petitions by directing the petitioner to pay 30% of the demand, and furnish adequate security to the satisfaction of the assessing authority for the balance amount, within a period of 45 days of receipt of the orders, as a condition for the grant of the stay. Exts.P17 to P24 are impugned in the writ petition inter alia on the ground that the 2nd respondent while passing orders in the stay petition did not validly exercise his discretion under the Act.

2. I have heard Sri.Anil.D.Nair, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, 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 the orders impugned in the writ petition, the 2nd respondent has considered the various submissions put forward by the petitioner and noticed that the petitioner had not produced documents to substantiate his contention that the interstate movement of the goods was in fact a stock transfer and not an interstate sale. Although, admittedly there were no F-Forms to substantiate the contention regarding stock transfer, the 2nd respondent also relied on the finding of the 1st respondent assessing authority that the petitioner had not produced any other documents either, to evidence the fact that the transportation of the goods inter-state was pursuant to a stock transfer. It is after considering these aspects that the 2nd respondent has passed an order demanding only 30% of the amounts confirmed against the petitioner by the assessment orders aforementioned. I am of the view that, insofar as the 2nd respondent has given prima facie reasons for the grant of a conditional order of stay, there is no scope for interference with the said orders passed by the 2nd respondent. Accordingly, I dismiss the writ petition to the extent that it impugns Exts.P17 to P24 orders of the 2nd respondent.

Counsel for the petitioner would pray that the time limit granted in Exts.P17 to P24 orders, for complying with the direction therein, may be extended taking into account the financial position of the petitioner. Taking note of the said submission, I grant the petitioner time till 15th March, 2015 to comply with the directions in Exts.P17 to P24 orders. If any coercive steps have been initiated against the petitioner by the 1st respondent, the same shall be kept in abeyance till 15th March, 2015 and the petitioner shall also be permitted to operate his bank accounts in the meanwhile.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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