**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937**

**WP(C).No. 33916 of 2015 (L)**
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**PETITIONER:**
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**M/S.VADAKKEN GOLD EXPORTS (P) LTD.,**
**TC 8/265 1A, THOTTAN PETTA, EAST FORT,**
**THRISSUR-680 005, REPRESENTED BY ITS**
**MANAGING DIRECTOR SRI.VARGHESE VADAKKAN.**

**BY ADV. SRI.TOMSON T.EMMANUEL.**

**RESPONDENTS:**
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1. **ASSISTANT COMMISSIONER,**
   **COMMERCIAL TAXES, SPECIAL CIRCLE,**
   **COMMERCIAL TAX COMPLEX, POOTHOLE,**
   **THRISSUR-680 004.**

2. **INTELLIGENCE OFFICER,**
   **COMMERCIAL TAXES, SQUAD NO.II,**
   **COMMERCIAL TAX COMPLEX,**
   **POOTHOLE, THRISSUR-680 004.**

3. **DEPUTY TAHSILDAR (REVENUE RECOVERY),**
   **TALUK OFFICE, THRISSUR-680 001.**

**BY GOVT. PLEADER SMT.LILLY K.T.**

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

**rs.**

WP(C).No. 33916 of 2015 (L)

## APPENDIX

PETITIONER'S EXHIBITS:-

P1 COPY OF RELEVANT PAGES OF STATUTORY AUDIT REPORT SUBMITTED BEFORE 1ST RESPONDENT IN FORM NO.13 AND 13A FOR THE YEAR 2013-14 U/S.42 OF THE KERALA VALUE ADDED TAX ACT

P2 COPY OF THE ORDER PASSED U/S./74 OF THE KVAT ACT BY 2ND RESPONDENT, REFERRING TO COLLECTION OF ADMITTED TAX ALONG WITH COMPOUNDING FEE FROM PETITIONER FOR THE YEAR 2013-14

P2(A) COPY OF CASH RECEIPT NO.5042018 DATED 11.02.2014 FOR RS.3,05,000/- ISSUED TO PETITIONER BY 2ND RESPONDENT IN COLLECTING COMPOUNDING FEE U/S.74.

P2(B) COPY OF CASH RECEIPTS ISSUED BY 2ND RESPONDENT IN COLLECTING ADMITTED TAX AND INTEREST IN 4 INSTALLMENTS, WHICH IS REFERRED IN EXT.P2 FOR 2013-14

P3 COPY OF NOTICE DATED 19.08.2015 U/S.25(1) TO THE KVAT ACT FOR THE YEAR 2013-14 ISSUED TO PETITIONER,BY 1ST RESPONDENT, PROPOSING BEST JUDGMENT ASSESSMENT

P4 COPY OF DETAILED REPLY DATED 03.09.2015 SUBMITTED BY PETITIONER BEFORE 1ST RESPONDENT,AGAINST EXT.P3 NOTICE

P4(A) COPY OF ACCOUNTS STATEMENT FOR THE ONLINE GOLD RATE (SHARE BUSINESS)TRADING MADE WITH M/S.SHAREWEALTH COMMODITIES PVT. LTD, THRISSUR,RESULTED IN LOSS OF RS.1,70,66,386/- DURING THE YEAR 13-14

P5 COPY OF ORDER DATED 03.10.2015 PASSED BY 1ST RESPONDENT FOR THE YEAR 2013-14,IN COMPLETING BEST JUDGMENT ASSESSMENT AS PROPOSED,WITHOUT EVEN CREDITING AMOUNTS PAID IN EXT.P2(B) AND FURTHER DEMAND OF INTEREST

P6 COPY OF REQUEST DATED 04.11.2015 MADE U/S.66 TO THE KVAT ACT FOR RECTIFICATION OF MISTAKES IN EXT.P5 ORDER,SENT BY SPEED POST TO 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.33916 OF 2015**

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**Dated this the 11th day of November, 2015**

**J U D G M E N T**

Against Ext.P5 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P6 rectification application before the 1st respondent. It is the case of the petitioner that even prior to considering the rectification application, recovery steps are sought to be pursued for recovery of the amounts confirmed by Ext.P5 assessment order.

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 1st respondent shall consider and pass orders on Ext.P6 rectification application within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.
>
> ii. Coercive steps for recovery of amounts confirmed against the petitioner by Ext.P5

assessment order shall be kept in abeyance till orders are passed by the 1st respondent as directed above and communicated to the petitioner.

**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

mns/11.11.15