IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 34225 of 2015 (C)
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PETITIONER :
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M/S. HEKUR STEEL & GLASS CONTRACTORS
NELLIKKUNNU, THRISSUR
REPRESENTED BY ITS MANAGING PARTNER,
ROYCE KIZHAKOODAN.

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

RESPONDENTS :
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1. THE COMMERCIAL TAX OFFICER (WC)
THRISSUR-680 004.

2. THE INTELLIGENCE OFFICER (IB)
DEPARTMENT OF COMMERCIAL TAXES, THRISSUR-680 004.

3. THE DEPUTY COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES, THRISSUR-680 004.

BY GOVERNMENT PLEADER SRI.R. RENJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 34225 of 2015 (C)
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APPENDIX

PETITIONER(S)' EXHIBITS
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EXT.P1: TRUE COPY OF THE PROCEEDINGS FORM NO.1E ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2011-12 DATED 26/3/2012.

EXT.P1(A). TRUE COPY OF THE PROCEEDINGS FORM NO.1E ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2012-13 DATED 4/9/2012.

EXT.P1(B). TRUE COPY OF THE PROCEEDINGS FORM NO.1E ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2013-14 DATED 23/4/2013.

EXT.P2. TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT DATED 17/9/2014.

EXT.P3: TRUE COPY OF THE REPLY FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 28/10/2014.

EXT.P4: TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT DATED 13/3/2015.

EXT.P5: TRUE COPY OF THE RP FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 18/4/2015.

EXT.P6: TRUE COPY OF THE ORDER ISSUED BY THE 3RD RESPONDENT DATED 21/10/2015.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C) No.34225 of 2015**

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Dated this the 13th day of November 2015

**JUDGMENT**

The challenge in the writ petition is against Ext.P6 conditional order of stay, passed by the 3rd respondent in a stay application filed along with a revision petition against an order of penalty, for the assessment year 2012-13, under the Kerala Value Added Tax Act. The grievance of the petitioner in the writ petition is essentially that while passing Ext.P6 order, the 3rd respondent did not exercise his discretion validly.

2. I have heard the learned counsel appearing for the petitioner and 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, I find that in Ext.P6 order, the 3rd respondent has considered various contentions raised by the petitioner, at the time of arguing the stay petition and the finding that the petitioner had to deposit 30% of the amount confirmed against him by the order impugned, as a condition for

grant of stay against recovery of the balance amount, was arrived at only because the petitioner had not produced the contract at the time of hearing the stay petition for supporting his contention with regard to the nature of the contract. On a consideration of Ext.P6 order, I find that the 3rd respondent has given reasons for granting only a conditional order of stay and therefore, I see no reason to interfere with the said order in these proceedings under Article 226 of the Constitution of India. The challenge in the writ petition against Ext.P6 order is therefore rejected.

4. Counsel for the petitioner pray for some time to comply with the directions in Ext.P6 order. Taking note of the plea of financial hardship raised by the petitioner, I direct that if the petitioner complies with the directions of Ext.P6 order within one month from today, then the same shall be treated as in compliance of Ext.P6 order of the 3rd respondent.

The writ petition is disposed as above.

Sd/-
**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

sm/