IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C).No. 35078 of 2015 (H)

PETITIONER :

M/S. LARSEN & TOUBRO LIMITED,
HEAVY ENGINEERING DIVISION, POWAI CAMPUS,
SAKI VIHAR ROAD, P.O.BOX NO.8901, MUMBAI-4000 072,
REPRESENTED BY ITS MANAGER MR.ISWARAN.A.G.

BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMT.G.MINI
SRI.P.S.SREE PRASAD

RESPONDENT(S):
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1. DEPUTY COMMISSIONER (ASSESSMENT),
COMMERCIAL TAXES, ERNAKULAM-682 016

2. THE INTELLIGENCE OFFICER (IB) II,
O/O. THE DEPUTY COMMISSIONER (INTELLIGENCE),
DEPARTMENT OF COMMERCIAL TAXES, KOZHIKODE-673 001

3. THE ASSISTANT COMMISSIONER (WC & LT)
OFFICE OF THE DEPUTY COMMISSIONER,
OLD RAILWAY STATION ROAD, ERNAKULAM-682 018

BY GOVERNMENT PLEADER SMT. LILLY.K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.35078/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE ORDER DATED 29/09/2015

P2 COPY OF THE COVERING LETTER DATED 29/09/2015

P3 COPY OF THE SECURITY BONDS FURNISHED BY THE PETITIONER ALLDAT 26/10/2015

P4 COPY OF THE COVERING LETTER DATED 23/04/2015 TOGETHER WITH THE BOND FURNISHED FOR THE ASSESSMENT YEAR 2004-2005

P5 COPY OF THE WORKS CONTRACT RETURNS QUARTERLY DATED 15/10/2015

P6 COPY OF THE TRADING RETURN DATED 13/11/2015

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.35078 of 2015

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Dated this the 20th day of November, 2015

<u>J U D G M E N T</u>

The petitioner is aggrieved by Ext.P1 order of stay passed by the 1st respondent, in a stay application filed along with an appeal against a penalty order for the assessment years 2005-2006, 2006-2007 and 2007-2008. In Ext.P1 order, the 1st respondent revision authority directed the petitioner to pay 30% of the amount demanded for each year and furnish adequate security for the balance amount in any forms stipulated under the Kerala Value Added Tax Act and Rules before the assessing authority within 30 days from the date of receipt of the order. The grievance of the petitioner in the writ petition is essentially that, while he had complied with the requirement of remitting 30% of the amounts demanded each year, the assessing authority insisted on the petitioner furnishing a bank guarantee for the differential amount as a condition for giving effect to Ext.P1 order of the 1st respondent.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing on behalf of respondents.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the bar and taking note of the fact that the petitioner has already remitted 30% of the amount demanded for each year as contemplated in Ext.P1, and further, that the petitioner is a registered dealer whose average tax payment to the State exchequer is high, there will be a direction to the 3rd respondent to accept Ext.P3 security bond furnished by the petitioner before him as adequate security for the purposes of Ext.P1 order, and treat the petitioner as having complied with the directions in Ext.P1 order for the purposes of disposal of the appeal before the 1st respondent revision authority.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/20.11.15

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