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. 35094 of 2015 (J)

PETITIONER(S):

M/S.SUPRA HITECH ELECTRO EQUIPMENTS PVT.LTD.,
32/86 A & B, PALLISSERY ROAD, THAMMANAM P.O., COCHIN,
REPRESENTED BY MANAGING DIRECTOR.

BY ADVS.SRI.ANIL D. NAIR
SMT.O.A.NURIYA
KUM.SOUMYA PRAKASH
KUM.MEKHALA M.BENNY

RESPONDENT(S) :

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1. **THE COMMERCIAL TAX OFFICER,**
   CIRCLE II, COMMERCIAL TAXES, KALAMASSERY AT
   CIVIL STATION, KAKKANAD- 682 030.

2. **THE DEPUTY COMMISSIONER (APPEALS),**
   ERNAKULAM- 682 015.

3. **THE INSPECTING ASST. COMMISSIONER,**
   COMMERCIAL TAXES, ERNAKULAM- 682 030.

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:

Msd.

WP(C).No. 35094 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE ASSESSMENT ORDER DATED 18.08.2015 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.

EXHIBIT P1(A): TRUE COPY OF THE MODIFIED ASSESSMENT ORDER DATED 23.09.2015 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.

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

EXHIBIT P3: TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE NOTICE DATED 17.112015 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.35094 of 2015

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Dated this the 20th day of November, 2015

J U D G M E N T

Against Ext.P1(a) modified assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P2 appeal and Ext.P3 stay petition before the 2nd respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued through Ext.P4 demand notice for recovery of the amounts confirmed by Ext.P1(a) modified assessment order.

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 as also the submissions made across the Bar, I dispose the writ petition with the following directions:

> i. The 2nd respondent shall consider and pass orders on Ext.P3 stay petition within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps pursuant to Ext.P4 demand notice shall be kept in abeyance till such time as orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 2nd respondent shall be a reasoned one adverting to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/20.11.15