IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF NOVEMBER 2015/4TH AGRAHAYANA, 1937

WP(C).No. 35593 of 2015 (Y)

PETITIONER :

TRADE LINKS VENTURES (P) LTD.,
40/7191, IST FLOOR,TRADE LINK BUILDING
M.G. ROAD, ERNAKULAM, KOCHI – 682 035
(REPRESENTED BY THE MG. DIRECTOR
SRI. SRIKANTAN SURYANARAYANAN).

BY ADVS.SRI.K.N.SREEKUMARAN
SMT.V.P.SEENA DEVI

RESPONDENT(S) :

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1. ASSISTANT COMMISSIONER (ASSMT),
SPECIAL CIRCLE – II, COMMERCIAL TAXES,
TAX COMPLEX, ERNAKULAM , KOCHI – 682 015.

3. DEPUTY COMMISSIONER (APPEALS)
O/O. THE DEPUTY COMMISSIONER (APPEALS)
TAX COMPLEX, COMMERCIAL TAXES,
ERNAKULAM– 682 015.

4. INSPECTING ASSISTANT COMMISSIONER
COMMERCIAL TAXES, KAKKANAD, KOCHI – 682 030.

R1 TO R3 BY GOVT. PLEADER SRI. R. RANJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 35593 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 :	**COPY OF THE ASSESSMENT ORDER NO. 32071728104/12-13 DATED 27.6.2015 ISSUED BY THE IST RESPONDENT.**
EXT.P2	**COPY OF THE APPEAL AGAINST EXT.P1 FILED BEFORE THE 2ND RESPONDENT ON 27.7.2015.**
EXT.P2(a)	**COPY OF THE STAY APPLICATION FILED IN EXT.P1 APPEAL BEFORE THE 2ND RESPONDENT ON 27.7.2015.**
EXT.P2(b)	**COPY OF THE EARLY APPLICATION FILED IN EXT.P1 APPEAL BEFORE 2ND RESPONDENT ON 27.7.2015.**
EXT.P3	**COPY OF THE DEMAND NOTICE IN FORM I NO. A5 2411/2015 DATED 26.9.2015 ISSUED BY THE 3RD RESPONDENT.**
EXT.P4	**COPY OF THE STAY ORDER NO. KVATA 1615/2015 DATED 9.10.2015 ISSUED BY THE 2ND RESPONDENT.**
EXT.P5	**COPIES OF THE F FORM DECLARATION ALONG WITH THE LIST FOR 2012-13 ISSUED BY THE HYDERABAD BRANCH OF THE PETITIONER.**

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 35593 of 2015
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Dated this the 25th day of November, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P4 conditional order of stay passed by the 2nd respondent in a stay application filed along with an appeal preferred against an order of assessment under the Kerala Value Added Tax Act, herein after referred to as the KVAT Act, for the assessment year 2012-13. The grievance of the petitioner in the writ petition is essentially that, while passing Ext.P4 order, the 2nd respondent did not exercise its discretion validly. It is pointed out that the demand against the petitioner is essentially for non-production of the F-forms which would have established the factum of stock transfer effected by the petitioner. It is the case of the petitioner that, at the time of hearing before the 2nd respondent in the stay application, the petitioner did not have copies of the F-forms with him, but he has the said copies of F-forms with him now and he has produced details of the same as Ext.P5 in the writ petition.

Taking note of the said submission of counsel for the petitioner, I find that the interests of justice would be met by directing the 2nd respondent to consider and pass orders on Ext.P2 appeal preferred by the petitioner within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. To enable the 2nd respondent to do so, I quash Ext.P4 order and make it clear that, till such time as orders are passed by the 2nd respondent in Ext.P2 appeal as directed, recovery steps for recovery of amounts confirmed against the petitioner by Ext.P1 order of assessment shall be kept in abeyance.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

das /25.11.15