IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

WP(C).No. 35916 of 2015 (L)

PETITIONER:

NORTHSHORE FOODS (P) LTD,
THUMINADU, KUNJATHOOR P.O.,
MANJESHWAR, KASARAGOD -671 323,
REPRESENTED BY ITS MANAGER
SRI.ANOOP VARGHESE.

BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD

RESPONDENT(S):
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1. THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES, KASARAGOD - 671 001.

2. COMMISSIONER OF COMMERCIAL,
THIRUVANANTHAPURAM - 695 001.

3. INTELLIGENCE OFFICER (IB),
OFFICE OF THE INSPECTING
ASST.COMMISSIONER(INTELLIGENCE)
COMMERCIAL TAXES, KASARGOD - 671 001.

4. INSPECTING ASSISTANT COMMISSIONER
(REVENUE RECOVERY),
COMMERCIAL TAXES DEPARTMENT,
KANHANGAD -671 315.

BY GOVERNMENT PLEADER SMT.LILLY.K.T

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 35916 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P-1:	TRUE COPY OF THE PENALTY ORDER DATED 15.3.2015 FOR THE PERIOD 2009 - 10.
EXT.P-2:	TRUE COPY OF THE PENALTY ORDER DATED 15.12.2012 FOR THE PERIOD 2010 - 11.
EXT.P-3:	TRUE COPY OF THE PENALTY ORDER DATED 15.3.2015 FOR THE PERIOD 2011 - 12.
EXT.P-4:	TRUE COPY OF THE ORDER OF THE DEPUTY COMMISSIONER (APPEALS) DATED 14.10.2014.
EXT.P-5:	TRUE COPY OF THE JUDGEMENT IN WRIT PETITION NO.30585/2015 DATED8.10.2015.
EXT.P-6:	TRUE COPY OF THE MEMORANDUM OF REVISION FOR THE PERIOD 2009-10.
EXT.P-7:	TRUE COPY OF THE MEMORANDUM OF REVISION FOR THE PERIOD 2010-11.
EXT.P-8:	TRUE COPY OF THE MEMORANDUM OF REVISION FOR THE PERIOD 2011-12.
EXT.P-9:	TRUE COPY OF THE APPLICATION OF STAY FOR THE PERIOD 2009-10.
EXT.P-10:	TRUE COPY OF THE APPLICATION OF STAY FOR THE PERIOD 2010-11.
EXT.P-11:	TRUE COPY OF THE APPLICATION OF STAY FOR THE PERIOD 2011-12.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 35916 of 2015
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Dated this the 27th day of November, 2015

JUDGMENT

Against the first revisional order passed in penalty proceedings, the petitioner has preferred Exts.P6, P7 and P8 second revision petitions along with Exts.P9, P10 and P11 stay petitions before the 2nd respondent. The limited prayer of the petitioner is essentially for a direction to the 2nd respondent to consider and pass orders on Exts.P6, P7 and P8 revision petition itself, without insisting on pre-deposit of amounts confirmed in the penalty orders, since in the appeals against the assessment orders, Ext.P4 order was passed setting aside the demand against the petitioner and remanding the matter for fresh consideration by the assessing authority. It is pointed out that the penalty orders were passed relying solely on the assessment orders, which have since been set aside by the appellate authority.

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

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, and taking note of the fact that the penalty orders were passed based on the findings in the assessment orders, which have since been set aside by the appellate authority, I direct the 2nd respondent to consider and pass orders on Exts.P6, P7 and P8 revision petitions on merits, after hearing the petitioner, within a period of three months from the date of receipt of a copy of this judgment. I make it clear that, till such time as the 2nd respondent passes orders as directed in the revision petitions, coercive steps for recovery of amounts confirmed against the petitioner by Exts.P1 to P3 penalty orders, shall be kept in abeyance.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

das /27.11.15