IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

WP(C).No. 36196 of 2015 (Y)

PETITIONER(S):

M/S.AKHIL ANSU AGENCIES,
POOZHIKALAYIL BUILDING,
KIDANGOOR PO, KOTTAYAM 686 572,
REPRESENTED BY ITS PROPRIETRESS JOB MATHEW.

BY ADVS.SRI.K.J.ABRAHAM
SRI.NIKHIL JOHN

RESPONDENT(S):
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1. **THE COMMERCIAL TAX OFFICER,**
   OFFICE OF THE COMMERCIAL TAX OFFICE, PALA 686 575.

2. **THE DEPUTY COMMISSIONER (APPEALS),**
   COMMERCIAL TAXES, KOTTAYAM 686 001.

3. **THE INSPECTING ASST. COMMISSIONER,**
   DEPARTMENT OF COMMERCIAL TAXES, PALA 686 575.

BY GOVERNMENT PLEADER SMT.LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 36196 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

P1- **TRUE COPY OF THE ASESSMENT ORDER NO.32050948858/11-12 DATED 2.4.2015**

P2- **TRUE COPY OF THE CHEQUE NO.540121 DATED 5.5.2015**

P3- **TRUE COPY OF ASSESSMENT ORDER NO.32050948858/11-12 DATED 25.8.2015**

P4- **TRUE COPY OF TH EAPPEAL MEMORANDUM IN FORM NO.29 DATED 26.9.2015**

P5- **TRUE COPY OF THE FORM NO.30 STAY PETITON DATED 26.9.2015**

P6- **TRUE COPY OF THE FORM NO.1 DEMAND NOTICE NO.RRC NO.132/PALA/15-16/IAC, PALA DATED 28.10.2015**

P7- **TRUE COPY OF THE FORM NO.30 EARLY HEARING OF APPEAL DATED 26.9.2015**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.36196 of 2015

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Dated this the 1st day of December, 2015

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

Against Ext.P3 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P4 appeal and Ext.P5 stay petition before the 2nd respondent. Ext.P6 is the revenue recovery notice. It is submitted by counsel for the petitioner that pursuant to Ext.P1 assessment order, he has already paid the entire amount demanded therein and Ext.P3 is the revised assessment order demanding differential amounts from him for the assessment year in question. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued for recovery of the amounts confirmed by Ext.P3 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 and taking note of the fact that the petitioner has effectively paid more than 50% of the amounts that has been confirmed against him by Ext.P3

assessment order, I dispose the writ petition with the following directions:

i. The 2nd respondent shall consider and pass orders on Ext.P4 appeal within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps for recovery pursuant to Ext.P6 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/01.12.15