

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

WP(C).No. 38354 of 2015 (T)

PETITIONER :

**ALAGAPPA TEXTILES (COCHIN) MILLS,
ALAGAPPA NAGAR, THRISSUR 680032
REPRESENTED BY ITS DEPUTY MANAGER (FINANCE)**

**BY ADVS.SRI.E.K.MADHAVAN
SMT.P.VIJAYAMMA
SRI.V.KRISHNA MENON
SRI.PRINSUN PHILIP
SMT.J.SURYA**

RESPONDENTS :

- 1. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY (TAXES), DEPARTMENT
OF COMMERCIAL TAX, THIRUVANANTHAPURAM - 695001**
- 2. THE ASSISTANT COMMISSIONER (ASSMT)
SPECIAL CIRCLE, THRISSUR - 680 004.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, MINI CIVIL STATION,
IRINJALAKUDA - 682125.**

R1 TO R3 BY GOVERNMENT PLEADER SMT. LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2011-12.**
- P2: COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2012-13.**
- P3: COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2013-14.**
- P4: COPY OF THE DEMAND NOTICE DT 11/12/2015 FOR THE YEAR 2011-12.**
- P5: COPY OF THE DEMAND NOTICE DT 11/12/2015 FOR THE YEAR 2012-13.**
- P6: COPY OF THE DEMAND NOTICE DT 11/12/2015 FOR THE YEAR 2013-14.**
- P7: COPY OF THE REHABILITATION SCHEME SANCTIONED BY BIFR.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No. 38354 of 2015

Dated this the 17th day of December 2015

JUDGMENT

Against Exts.P1 to P3 assessment orders under the KVAT Act, the petitioner proposes to prefer appeals before the appellate authority. The grievance of the petitioner in the writ petition is that even before the appeals has been preferred by the petitioner, steps have been taken for recovery of amounts confirmed against the petitioner by Exts.P1 to P3 assessment orders. It is the specific case of the petitioner that the petitioner company is a Sick unit covered by Ext.P7 scheme of the BIFR. It is therefore contended that the petitioner would also have the benefit of Section 22 of the Sick Industrial Companies (Special Provisions) Act, 1985.

2. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar and finding that the petitioner company is covered by a rehabilitation scheme sanctioned by the BIFR, I dispose the writ petition with the

following directions:-

- i) The recovery steps initiated against the petitioner pursuant to Exts.P4 to P6 demand notices, for recovery of amounts confirmed against the petitioner by Exts.P1 to P3 assessment orders, shall be kept in abeyance for a period of three months from the date of receipt of a copy of this judgment.
- ii) The petitioner shall prefer statutory appeals against Exts.P1 to P3 orders within a period of three weeks from the date of receipt of a copy of this judgment.
- iii) The appellate authority under the KVAT / CST Act, before whom the appeals against Exts.P1 to P3 orders are preferred by the petitioner, within the time granted in this judgment, shall consider and pass orders in the appeals, after hearing the petitioner, within two months from the date of filing of the appeals, by the petitioner.
- iv) It is made clear that in the event of the appellate authority delaying the consideration and passing of orders in the appeals filed by the petitioner, beyond the period of three

months, granted this judgment, the stay against recovery shall continue till such time as orders are passed by the said appellate authority and communicated to the petitioner.

v) If the petitioner does not file any appeal within the time granted in this judgment, he will lose the benefit of this judgment and the respondents will be free to continue the recovery steps against the petitioner, from the stage at which they presently are.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/