IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

WP(C).No. 38822 of 2015 (C)

PETITIONER(S):

M/S.CORDON CONSTRUCTORS & REALTORS PVT.LTD.,
T.C. 5/1230-8, RAMACHANDRIKA TOWER,
PIPPINMOODU, THIRUVANANTHAPURAM, PIN - 695 030,
REPRESENTED BY ITS MANAGING DIRECTOR,
AYYAPPAN UNNITHAN.

BY ADVS.SRI.V.SURESH (TRIVANDRUM)
SRI.P.G.JAYASHANKAR
SMT.P.SREELAKSHMI
SRI.V.SREEJAYAN

RESPONDENT(S):

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1. THE PRINCIPAL SECRETARY,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

2. THE COMMISSIONER,
COMMERCIAL TAXES DEPARTMENT, TAXES TOWER,
THIRUVANANTHAPURAMPIN - 695 002.

3. THE ASSISTANT COMMISSIONER (WORKS CONTRACT),
COMMERCIAL TAXES, TAXES TOWER, KARAMANA,
THIRUVANANTHAPURAM - 695 002.

4. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, TAXES TOWER, KARAMANA,
THIRUVANANTHAPURAM - 695 002.

BY GOVERNMENT PLEADER SMT.K.T.LILLY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 38822 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1:	TRUE COPY OF THE PERMISSION IN FORM 1E DATED 21.5.2012
EXT.P-1(A):	TRUE COPY OF THE LIABILITY CERTIFICATE DATED 21.5.2012
EXT.P-1(B):	TRUE COPY OF THE PERMISSION IN FORM 1E DATED 10.6.2013
EXT.P-1(C):	TRUE COPY OF THE LIABILITY CERTIFICATE DATED 10.6.2013
EXT.P-1(D):	TRUE COPY OF THE CERTIFICATE IN FORM 1E DATED 1.7.2014
EXT.P-2:	TRUE COPY OF THE ANNUAL RETURNS FOR THE YEAR 2012 - 13
EXT.P-3:	TRUE COPY OF THE ANNUAL RETURNS FOR THE YEAR 2013 - 14
EXT.P-4:	TRUE COPY OF THE ANNUAL RETURNS FOR THE YEAR 2014 - 15
EXT.P-5:	TRUE COPY OF THE RETURNS FOR THE IST QUARTER FOR THE YEAR 2015-16
EXT.P-6:	TRUE COPY OF THE RETURNS FOR THE 2ND QUARTER FOR THE YEAR 2015-16
EXT.P-7:	TRUE COPY OF THE FORM 10G NOTICE DATED 10.7.2015
EXT.P-8:	TRUE COPY OF REPLY DATED 17.7.2015
EXT.P-9:	TRUE COPY OF THE PERMISSION IN FORM 1E DATED 10.7.2015
EXT.P-10:	TRUE COPY OF THE LETTER DATED 10.8.2015
EXT.P-11:	TRUE COPY OF THE NOTICE DATED 11.8.2015
EXT.P-12:	TRUE COPY OF THE OBJECTIONS DATED 24.8.2015
EXT.P-13:	TRUE COPY OF THE ORDER DATED 25.8.2015
EXT.P-14:	TRUE COPY OF THE APPEAL MEMORANDUM (WITHOUT ANNEXURE)
EXT.P-14(A):	TRUE COPY OF THE STAY PETITION
EXT.P-14(B):	TRUE COPY OF THE URGENT APPLICATION FOR HEARING
EXT.P-15:	TRUE COPY OF THE LETTER DATED 28.11.2015 OF THE 3RD RESPONDENT
EXT.P-15(A):	TRUE COPY OF THE ATTESTED COPY OF FORM 1B APPLICATION

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WP(C).No. 38822 of 2015 (C)

EXT.P-16: TRUE COPY OF THE NOTICE DATED 3.11.2015

EXT.P-17: TRUE COPY OF THE OBJECTIONS DATED 24.11.2015

EXT.P-18: TRUE COPY OF THE ORDER DATED 28.11.2015

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.38822 of 2015

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Dated this the 23rd day of December, 2015

J U D G M E N T

The challenge in the writ petition is against Exts.P13 and P18 orders passed under the Kerala Value Added Tax Act whereby the option of the petitioner seeking to pay tax at compounded rate was rejected by the respondents, and the higher rate of tax for the purposes of compounding was adopted in relation to the petitioner. Although various grounds are raised in the writ petition against Exts.P13 and P18 orders, I am of the view that, the petitioner has an effective alternative remedy against the said orders by way of filing an appeal before the appellate authority under the Kerala Value Added Tax Act. On a perusal of Exts.P13 and P18 orders, I do not find the same as vitiated by any jurisdictional error or non-compliance with the rules of natural justice. Accordingly, I dismiss the writ petition in its challenge against Exts.P13 and P18 orders.

Taking note of the submission of counsel for the petitioner that he would require some time to pursue his alternate remedy against Exts.P13 and P18 orders, I direct that recovery steps for recovery of amounts pursuant to Exts.P13 and P18 orders shall be kept in abeyance for a period of three weeks, so as to enable the petitioner to pursue his alternate remedy against Exts.P13 and P18 orders.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/23.12.15