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. 39719 of 2015 (L)

PETITIONER :

M/S.LABELLA HOSPITALITY (P) LTD.,
309-F, NEAR NAIR'S HOSPITAL, KUNDANOOR,
MARADU.P.O- 682 304,
REPRESENTED BY ITS MANAGING DIRECTOR M.J.THOMAS.

BY ADVS.SRI.K.J.ABRAHAM
SRI.NIKHIL JOHN
SRI.ABDUL JALEEL.A

RESPONDENT(S):
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1. THE COMMERCIAL TAX OFFICER (LUXURY TAX),
   OFFICE OF THE DEPUTY COMMISSIONER, COMMERCIAL TAXES,
   CLASS TOWER, OLD RAILWAY STATION ROAD, ERNAKULAM.

2. THE DEPUTY COMMISSIONER (APPEALS),
   COMMERCIAL TAXES, ERNAKULAM-682 015.

3. THE INSPECTING ASSISTANT COMMISSIONER,
   COMMERCIAL TAXES, KAKKANAD-682 030

BY GOVERNMENT PLEADER SRI.R.RANJITH

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

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WP(C).NO.39719/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1	COPY OF THE PENALTY ORDER NO.32074322534/2014-15/DECEMBER FOR THE MONTH DECEMBER 2014 DATED 05/08/2015.
P1(A)	COPY OF THE PENALTY ORDER NO.32074322534/2014-15/JANUARY FOR THE MONTH JANUARY 2015 DATED 05/08/2015.
P1(B)	COPY OF THE PENALTY ORDER NO.32074322534/2014-15/FEBRUARY FOR THE MONTH FEBRUARY 2015 DATED 05/08/2015
P1(C)	COPY OF THE PENALTY ORDER NO.32074322534/2014-15/ARCH FOR THE MONTH 2015 DATED 05/08/2015.
P2	COPY OF THE APPEAL MEMORANDUM IN FORM NO.III FILED BY THE PETITIONER FOR THE MONTH DECEMBER 2014 DATED 21/12/2015.
P2(A)	COPY OF THE APPEAL MEMORANDUM IN FORM NO.III FILED BY THE PETITIONER FOR THE MONTH JANUARY 2015 DATED 21/12/2015.
P2(B)	COPY OF THE APPEAL MEMORANDUM IN FORM NO.III FILED BY THE PETITIONER FOR THE MONTH FEBRUARY 2015 DATED 21/12/2015
P2(C)	COPY OF THE APPEAL MEMORANDUM IN FORM NO.III FILED BY THE PETITIONER FOR THE MONTH MARCH 2015 DATED 21/12/2015.
P3	COPY OF THE FORM NO.IVA STAY PETITION FILED BY THE PETITIONER FOR THE MONTH DECEMBER 2014 DATED 21/12/2015.
P3(A)	COPY OF THE FORM NO.IVA STAY PETITION FILED BY THE PETITIONER FOR THE MONTH JANUARY 2015 DATED 21/12/2015
P3(B)	COPY OF THE FORM NO.IVA STAY PETITION FILED BY THE PETITIONER FOR THE MONTH FEBRUARY 2015 DATED 21/12/2015
P3(C)	COPY OF THE FORM NO.IVA STAY PETITION FILED BY THE PETITIONER FOR THE MONTH MARCH 2015 DATED 21/12/2015
P4	COPY OF THE FORM NO.IVA DELAY CONDONATION PETITION FILED BY THE PETITIONER FOR THE MONTH DECEMBER 2014 DATED 21/12/2015
P4(A)	COPY OF THE FORM NO.IVA DELAY CONDONATION PETITION FILED BY THE PETITIONER FOR THE MONTH JANUARY 2015 DATED 21/12/2015
P4(B)	COPY OF THE FORM NO.IVA DELAY CONDONATION PETITION FILED BY THE PETITIONER FOR THE MONTH FEBRUARY 2015 DATED 21/12/2015

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P4(C) COPY OF THE FORM NO.IVA DELAY CONDONATION PETITION FILED BY THE PETITIONER FOR THE MONTH MARCH 2015 DATED 21/12/2015

P5 COPY OF THE FORM NO.1 DEMAND NOTICE NO.A5-3073/15 DATED 24/11/2015.

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.39719 of 2015

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Dated this the 23rd day of December 2015

JUDGMENT

Against Exts. P1 series of penalty orders under the Kerala Tax on Luxuries Act, the petitioner has preferred Ext.P2 series of appeals, Ext.P3 series of stay petitions and Ext.P4 series of delay condonation petition before the 2nd respondent. 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. P1 series of penalty orders.

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, I dispose the writ petition with the following directions:

i) The 2nd respondent shall consider and pass orders on Ext.P3 series of stay petitions and Ext. P4 series of delay condonation petitions within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii) Recovery steps for recovery of amounts confirmed against petitioner by Ext.P1 series of assessment orders shall be kept in abeyance till orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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