IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 30TH DECEMBER 2008 / 9TH POUSHA 1930

WP(C).No. 38320 of 2008(J)

PETITIONER(S):

     M/S.SIMPLEX INFRASTRUCTURE LIMITED, HAVING ITS
     OFFICE AT C/O.INDIA GATEWAY TERMINAL PVT. LTD.,
     ICTT PROJECT, VALARPADAM, COCHIN AND HAVING
     ITS REGISTERED OFFICE AT SIMPLEX HOUSE,
     27, SHAKESPEAR SARANI, KOLKATTA 700 017
     REPRESENTED BY ITS AUTHORISED SIGNATORY
     MR.A.CHATTOPADHYAY.

    BY ADV. SRI.A.KUMAR

RESPONDENT(S):
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1.   THE DY. COMMISSIONER OF APPEALS,
     DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM.

2.   THE COMMERCIAL TAX OFFICER (WC),
     COMMERCIAL TAXES, ERNAKULAM.

3.   THE INSPECTING ASSISTANT COMMISSIONER,
     COMMERCIAL TAXES, KAKKANAD, ERNAKULAM.

     BY SPL.GOVT. PLEADER (TAXES) SRI.K.P.PRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30/12/2008,   THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

The petitioner is a contractor, awarded with certain works in relation to the International Container Terminal project at Vallarpadam. The allegation against the petitioner is that following certain recoveries made from the amounts to be paid to one of the sub-contractors, the amounts deducted by the petitioner as VAT was not paid to the account of the Revenue. The defence raised is that the said differential, with interest of Rs.45,000/-, was remitted.

Having considered the contents of the penalty order as also the grounds raised in the appeal, it is ordered that if the petitioner remits an amount of Rs.4,00,000/- within a period of three weeks, the penalty order Ext.P3 impugned in Ext.P4 appeal shall not be enforced pending final consideration of Ext.P4 appeal. If such payment is made, the appellate authority will

consider the appeal out of turn and dispose of it within an outer

limit of three weeks. The writ petition is ordered accordingly.

<div align="center">Sd/-</div>

THOTTATHIL B.RADHAKRISHNAN,
Judge.

kkb.