IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

RP.No. 362 of 2015 ()

(AGAINST THE JUDGMENT IN WP(C).NO. 33774/2014 DATED 10-03-2015)

REVIEW PETITIONER/PETITIONER :

RANGE ENTERPRISES,T.C.11/1616(1),
"SHARON", PLAMOODU-CHARACHIRA ROAD,
THIRUVANANTHAPURAM-695 003.

BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR

RESPONDENT(S)/RESPONDENTS :

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1. INTELLIGENCE OFFICER,
   SQUAD NO.III, COMMERCIAL TAXES,
   THIRUVANANTHAPURAM AT NEYYATTINKARA.

2. COMMERCIAL TAX OFFICER, FIRST CIRCLE,
   TAX TOWERS, KARAMANA, THIRUVANANTHAPURAM-695 002.

BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION
ON 07-04-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

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A.K.JAYASANKARAN NAMBIAR, J.

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R.P.No.362 of 2015
in
W.P.(C).No.33774 of 2014

....

Dated this the 7th day of April, 2015

<u>O R D E R</u>

This is a petition filed for review of the judgment dated 10.03.2015 in W.P.(C).No.33774 of 2014. By the judgment impugned in the present review petition, this Court had relegated the petitioner to the alternate remedy under the Kerala Value Added Tax Act, of filing a revision petition against Exts.P9 and P9 (a) orders that were impugned in the writ petition. While doing so, this Court also considered the submissions of counsel for the petitioner, with regard to the denial of an opportunity of hearing before the original authority who passed Exts.P9 and P9(a) orders. On consideration of the submissions of counsel for the petitioner, as also the contentions in the writ petition, it was found that there was nothing on record to show that the petitioner had in fact appeared for the hearing on 18.08.2014, although he had been informed of the posting of the hearing on that date. It was under these circumstance, and on finding that there was no violation of natural justice occasioned while passing Exts.P9 and P9(a) orders, that this Court thought it appropriate to relegate the petitioner to the alternate remedy of filing a revision petition against Exts.P9 and P9(a) orders before the revisional authority under the Kerala Value Added Tax Act. In the review petition, the petitioner relies on the averments in the writ petition, which suggest that he had in fact appeared at the office of the 1st respondent on 18.08.2014, but the 1st respondent was not available in the office, and therefore, the petitioner had handed over the replies to the notice received by him, to the staff at the office of the 1st respondent ,who apparently refused to accept the replies in the absence of the 1st respondent. Counsel for the petitioner relies on the said averments in the writ petition to fortify his contention that the petitioner was actually present at the office of the 1st respondent on 18.08.2014, for the hearing that was fixed on that date. I note that, at the time of disposal of the writ petition, although, this fact was averred in the writ petition, the learned Government Pleader on instructions had submitted that there was no appearance of the petitioner before the office of the 1st respondent on the said date. It was under these circumstances that this Court did not deem it necessary to embark upon a consideration of disputed facts. At any rate, this Court only relegated the petitioner to his alternate remedy under the Kerala Value Added Tax Act. I do not see any reason to review the judgment, that is impugned in the review petition, as no grounds are made out in the review petition for reviewing the same. Accordingly, the review petition fails and is accordingly dismissed.

Counsel for the petitioner would pray for a further period of two weeks for preferring the revision petition against Exts.P9 and P9(a) orders that were impugned in the writ petition. Taking into account the submission of counsel for the petitioner, I direct that the recovery steps for recovery of amounts confirmed against the petitioner by Exts.P9 and P9(a) orders in the writ petition, shall be kept in abeyance for a further period of two weeks, to enable the petitioner to approach the revisional authority as already directed in the impugned judgment. I make it clear that the stay granted above shall cease to be in force on the expiry of the aforementioned period of two weeks.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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