IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WA.No. 325 of 2015 () IN WP(C).1186/2015

AGAINST THE ORDER/JUDGMENT IN WP(C) 1186/2015 of HIGH COURT OF KERALA DATED 13-01-2015

APPELLANT(S)/PETITIONER:

T.M.FIROZE, PROPRIETOR, M/S. T.M.POULTRY FARM
SEETHAMGOLI, MARKET ROAD, KASARAGOD.

BY ADVS.SRI.T.M.SREEDHARAN (SR.)
SRI.V.P.NARAYANAN
SMT.DIVYA RAVINDRAN

RESPONDENT(S)/RESPONDENTS:
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1. THE ASSISTANT COMMISSIONER (KVAT)
COMMERCIAL TAXES SPECIAL CIRCLE
KASARAGOD - 671 121.

2. THE INTELLIGENCE OFFICER (IB)
OFFICE OF THE INSPECTING ASSISTANT
COMMISSIONER (INTELLIGENCE), COMMERCIAL TAXES
KASARAGOD - 671 121.

BY ADV.LIJU V. STEPHEN, SR. GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WA 325/15

APPENDIX

APPELLANT'S EXHIBITS

ANNEXURE-A : COPY OF NOTICE NO.321302 28644/2010-11 & 2011-12 DATED 06.02.2015 ISSUED BY R1.

ANNEXURE-B : COPY OF REPLY DATED 09.02.2015 SUBMITTED BY THE PETITIONER TO THE R1.

//TRUE COPY//

PA TO JUDGE.

jg

THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.

....

W.A.No.325 of 2015

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Dated this the 20th day of February, 2015.

JUDGMENT

Thottathil B.Radhakrishnan, J.

1. We have heard the learned senior counsel for the appellant, who is the writ petitioner.

2. Exts.P9 and P10 notices were issued to the writ petitioner. He submitted Ext.P11 reply to those pre-assessment notices. He, thereafter, challenged Exts.P9 and P10 by instituting writ petition. The learned single Judge rightly noticed that against notices of such nature, a writ petition will be entertained only if there is a serious flaw noticed in matters relating to jurisdiction or if the notices were issued beyond the period of limitation prescribed in the statute, thereby depriving the authority of its jurisdiction to issue the notice itself. The learned single Judge also pointedly noticed paragraph 17 of Ext.P11 reply in which an opportunity to cross-examine the persons from whom 38 invoices were recovered is also sought for.

3. On the totality of the facts and circumstances, we do not see any

jurisdictional issue or such legal infirmity, as could be visited in exercise of authority under Article 226 of the Constitution of India, as sustained as against Exts.P9 and P10. The learned single Judge was, therefore, fully justified in relegating the writ petitioner to the statutory proceedings, that too, by issuing directions for consideration of Ext.P11 reply. It will be premature for us to presume as to what could ultimately come out after hearing the reply that the writ petitioner has furnished. It is not as if the departmental authorities would be tied down even to the initial pre-assessment notices. Therefore, though the learned senior counsel for the appellant made very persuasive submissions based on the facts of the case, we are not inclined to take the view that at this point of time, we should express either way, any further.

For the aforesaid reasons, we see no merit in the writ appeal. This writ appeal is, hence, dismissed in limine.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(K.HARILAL, JUDGE)

jg