IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WP(C).No.597 of 2015 (Y)

PETITIONER:

T.B.SIMSON,CHAIRMAN,THANDAR & SONS TRUST,
REG NO.A/45/88,THIRUMALABHAGAM P.O,
THURAVOOR,NOW RESIDING AT NANDANAM,
THIRUMALABHAGAM P.O,THURAVOOR,
CHERTHALA,ALAPPUZHA-688 540.

BY ADVS.SRI.P.V.JAYACHANDRAN
SRI.E.B.SHIVANANDAN
SRI.NIDHI BALACHANDRAN

RESPONDENT:

THE COMMERCIAL TAX OFFICER,
OFFICE OF THE AIT & COMMERCIAL TAX OFFICER,
KUTHIATHODU,CHERTHALA, ALLAPPUZHA DISTRICT,
PIN-688 533.

BY SENIOR GOVT. PLEADER SMT.SHOBA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

WP(C).No.597 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT-P1:TRUE COPY OF THE DUPLICATE C FORM DATED 24-05-2013.

EXHIBIT-P2:TRUE COPY OF THE DUPLICATE C FORM DATED 26-06-2013.

EXHIBIT-P3:TRUE COPY OF THE SEARCH RESULT OF C FORM DATED 24-05-2013

EXHIBIT-P4:TRUE COPY OF THE SEARCH RESULT OF C FORM DATED 26-06-2013

EXHIBIT-P5:TRUE COPY OF THE SHOW CAUSE NOTICE NO.32041890044/2013-14 DATED 22-11-2014.

EXHIBIT-P6:TRUE COPY OF THE OBJECTION DATED 19-12-2014.

EXHIBIT-P7:TRUE COPY OF THE ASSESSMENT ORDER FOR 2013-2014 DATED 24-12-2014.

EXHIBIT-P8:TRUE COPY OF THE DEMAND NOTICE NO.163/2014-2015 DATED 24-12-2014.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No.597 of 2015 (Y)

...

Dated this the 8th day of January, 2015

JUDGMENT

The petitioner, who is an assessee on the rolls of the respondent, is conducting a safety match splint manufacturing and trading unit. Challenge in the writ petition is against Ext.P7 order of assessment and Ext.P8 demand notice that have been served on the petitioner for the assessment year 2013 - 2014.

2. Although, the petitioner would raise various contentions while impugning Ext.P7 order in these proceedings under Article 226 of the Constitution of India, I am of the view that the petitioner has got an effective alternative remedy under the Kerala Value Added Tax Act, 2003, to challenge the assessment order before the appellate authority under the said act.

3. It is trite that interference with assessment orders passed under taxing statutes, in proceedings under Article 226 of the constitution, can only be in very limited circumstances where there is a fundamental flaw in the exercise of jurisdiction or there is an established case of violation of natural justice or in cases where the demand or proceedings are hit by the provisions of limitation. Inasmuch as in the present case, I do not see any such irregularity, I am of the view that the writ petition

challenging Ext.P7 order is not maintainable and the petitioner ought to be relegated to the course of approaching the appellate authority under the KVAT Act. Resultantly this writ petition is dismissed as not maintainable, without prejudice to the right of the petitioner to approach the appellate authority under the KVAT Act for redressal of his grievance against Ext.P6 assessment order.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/09/01/