

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

WP(C).No. 1812 of 2015 (B)

PETITIONER(S) :

HUSSAIN, A.,
ITTINETH HOUSE, KANNAMPILLIBHAGOM,
KAYAMKULAM P.O. ALAPPUZHA DISTRICT
PIN - 690502

BY ADV. SRI.MOHAMMED RAFIQ

RESPONDENT(S) :

1. THE DISTRICT COLLECTOR,
ALAPPUZHA, PIN - 688 001
2. THE COMMERCIAL TAX OFFICER,
KAYAMKULAM, ALAPPUZHA - 690 502
3. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOLLAM - 691 002
4. THE DEPUTY TAHSILDAR (RR),
TALUK OFFICE, KAYAMKULAM - 690 502
5. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
COMMERCIAL TAXES DEPARTMENT,
TRIVANRUM - PIN 695 001

BY GOVERNMENT PLEADER SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 19-01-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

W.P.C. NO. 1812 OF 2015

APPENDIX

PETITIONER'S EXTs:

EXT.P1: TRUE COPY OF THE ORDER NO.
13151074/2000-01 DATED 1-12-2001 PASSED
BY THE 2ND RESPONDENT

EXT.P2: TRUE COPY OF THE NOTICE NO.
23729/06/B4DATED 24-10-2014 ISSUED BY
THE 1ST RESPONDENT

XT.P3: TRUE COPY OF THE NOTICE IN
FOR19, DATED 24-10-2014 ISSUED BY THE
1ST RESPONDENT

EXT.P4: TRUE COPY OF THE NOTICE IN FORM
19 DATED 2-12-2014 ISSUED BY THE 1ST
RESPONDENT

EXT.P5: TRUE COPY OF THE APPLICATION
DATED 16-12-2014 SUBMITTED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT

EXT.P6: TRUE COPY OF THE REPRESENTATION
SUBMITTED BY THE PETITIONER BEFORE THE
1ST RESPONDEENT ON 17-12-2014

EXT.P7: TRUE COPY OF NOTICE BO, B4-23729/08
DATED 5-1-2015 ISSUED BY THE 1ST RESPONDENT

/TRUECOPY/

p.s. to judge

A.M.SHAFFIQUE, J.

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W.P.(C) No.1812 of 2015 – B
.....

Dated this the 19th day of January, 2015

JUDGMENT

Petitioner challenges Ext. P7 by which the District Collector had called upon the petitioner to appear before the said authority on 19-1-2015 at 4 p.m. According to the petitioner, to an earlier notice Ext. P4 dated 2-12-2014, the petitioner had appeared and he had given security of three sureties. He has also submitted a reply as Ext. P6. According to the petitioner, without hearing the objections raised by way of Ext. P6, he is called upon to appear on 19-1-2015 inter alia indicating that he had not discharged the liability within 30 days.

2. The contention urged by the petitioner is that he had

only sought for 30 days time to file his objections and unless the said objection is heard and decided, he cannot be called upon to remit any amount. By issuing Ext. P7, the Collector had failed to grant him appropriate opportunity to substantiate his case and has called upon him to remit the amount which is violation of the principles of natural justice.

3. Apparently, the liability incurred by the petitioner is with reference to sales tax arrears. According to the petitioner, he has only the obligation to pay the liability which is incurred by him during the period 1998-1999 and 1999-2000 whereas as far as the year 2000-2001 is concerned, somebody else has used his registration and the liability came to be incurred by that person. He was also not served with the appellate order. Steps have been taken to file an appeal against the said appellate order as well.

4. Having regard to the factual situation, I am of the view that an opportunity has to be granted to the petitioner to ventilate his grievance.

5. The learned Government Pleader submits that Ext. P7 is

only a notice for appearance and the direction to pay the amount as has been stated in the notice as there was no valid explanation. Whatever that be, the Collector is bound to consider Ext. P6 reply and pass appropriate orders. Before passing an order based on the objection submitted, it may not be possible for the District Collector to call upon the petitioner to remit the amount. Under such circumstances, this Writ Petition is disposed of as under:-

The District Collector shall pass appropriate orders taking into consideration Ext. P6 and the copy of the order shall be intimated to the petitioner within a period of 30 days from the date of the order to be passed by the District Collector. Petitioner or his representative shall appear before the District Collector today (19-01-2015) at 4 p.m.

Dated this the 19th day of January 2015.

A.M.SHAFFIQUE,
JUDGE

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