

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WP(C).No. 2268 of 2015 (G)

PETITIONER(S):

SHAFI P.
PULIKKAL TRADERS, KADAMPUZHA, MALAPPURAM.

BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN

RESPONDENT(S):

THE ASSISTANT COMMISSINER (KVAT)
DEPARTMENT OF COMMERCIAL TAXES, SPECIAL CIRCLE
MALAPPURAM - 673 006.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
22-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 2268 of 2015 (G)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P-1: TRUE COPY OF THE PRE-ASSESSMENT NOTICE ISSUED BY THE
RESPONDENT FOR THE ASSESSMENT YEAR 2011 - 12 DATED 12.11.2014

EXT.P-2: TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER BEFORE
THE RESPONDENT DATED 15.12.2014

EXT.P-3: TRUE COPY OF THE ASSESSMENT ORDER PASSED BY THE RESPONDENT
FOR THE YEAR 2011 - 12 DATED 5.1.2015

EXT.P-4: TRUE COPY OF THE JUDGEMENT IN WPC NO.31051 OF 2014 DATED
21.11.2014

EXT.P-5: TRUE COPY OF THE DEMAND NOTICE IN FORM NO.12 ISSUED BY THE
RESPONDENT

FOR THE YEAR 2011 - 12 DATED 8.1.2015

RESPONDENT(S) ' EXHIBITS;NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.2268 of 2015

.....
Dated this the 22nd day of January, 2015

J U D G M E N T

The petitioner challenges Ext.P3 assessment order under the Kerala Value Added Tax Act for the assessment year 2011-2012. The principal ground of challenge against Ext.P3 order is that, although the petitioner was given an opportunity to file a reply to the notice that preceded the order, the petitioner was not given an opportunity of hearing after the filing of the reply and Ext.P3 order, in that respect, was passed without hearing the petitioner.

2. I have heard Sri.N.Muraleedharan Nair, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that in Ext.P2 reply to Ext.P1 notice that was served on the petitioner, the petitioner had indicated that if the explanations given in the reply were not acceptable to the respondent, or if the respondent required any further evidence or clarification, then he should be

given an opportunity to substantiate his contentions before passing orders in the case. In Ext.P3 order, there is nothing to indicate that a hearing was afforded to the petitioner pursuant to the said request contained in Ext.P2 reply. In that view of the matter, I find that Ext.P3 order has been passed in violation of the rules of natural justice. Accordingly, I quash Ext.P3 and direct the respondent to reconsider the matter, after affording the petitioner an opportunity of being heard. To enable the respondent to do this, I direct the petitioner to appear before the respondent at his office at 11 am on 06.02.2015. The respondent shall pass fresh orders as directed in this judgment within a period of two months from the date of receipt of a copy of this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

