

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 2586 of 2015 (W)

PETITIONER(S):

**M/S BROTHERS MARBLES,
THANKALAM, KOTHAMANGALAM, ERNAKULAM DISTRICT
PIN 686674, REPRESENTED BY ITS MANAGING PARTNER
T.M.AZEES.**

**BY ADVS.SRI.MOHAMMED RAFIQ
SRI.M.G.SHAJI**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER
DEPARTMENT OF COMMERCIAL TAXES, KOTHAMANGALAM
ERNAKULAM, PIN 686674.**
- 2. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY
COMMERCIAL TAXES DEPARTMENT, TRIVANDRUM, PIN 695001.**

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 2586 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: THE TRUE COPY OF THE NOTICE NO.32151540734/11-12 DATED 28.02.2014 ISSUED BY THE 1ST RESPONDENT.

EXHIBIT-P2: THE TRUE COPY OF THE REPLY DATED 14.03.2014 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXHIBIT-P3: THE TRUE COPY FO THE ASSESSMENT ORDER DATED 24.11.2014 PASSED BY THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.2586 OF 2015 (W)

Dated this the 27th day of January, 2015

J U D G M E N T

The petitioner challenges Ext.P3 assessment order passed under the Kerala Value Added Tax Act. The main contention of the petitioner in the writ petition is that Ext.P3 order was passed without affording the petitioner an opportunity of hearing. On a perusal of Ext.P3 order, it is evident that while the assessing officer had considered the reply filed by the petitioner, to the notice issued to him, there was no hearing granted to the petitioner to substantiate his contentions in the reply.

2. I have heard Sri.Mohammed Rafiq, the learned counsel appearing for the petitioner as also Smt.Sobha Annamma Eappen, the learned Government Pleader appearing for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I am of the view that Ext.P3 order is one that is passed in violation of the rules of natural

justice. Ext.P3 order is, therefore, quashed and the 1st respondent is directed to reconsider the matter and pass fresh orders of assessment for the year 2011-12, after affording the petitioner an opportunity of being heard. To enable the 1st respondent to do this, the petitioner shall appear before the 1st respondent at 11.00 A.M. on 6.2.2015. The 1st respondent shall thereafter pass orders in the matter within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp