

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 4712 of 2015 (L)

PETITIONER(S):

**TATA TELESERVICES LIMITED,
S.L.PLAZA, PALARIVATTOM, COCHIN
REPRESENTED BY ITS AUTHORISED SIGNATORY
SRI.FRANCIS XAVIER K.J.**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD**

RESPONDENT(S):

**THE COMMERCIAL TAX OFFICER (ENQUIRY)
O/O THE DEPUTY COMMISSIONER, COMMERCIAL TAXES
MATTANCHERRY - 682 031.**

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 4712 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE REGISTRATION CERTIFICATE DATED 28/05/2007/

EXT.P2: A TRUE COPY OF THE NOTICE DATED 14/08/2009.

EXT.P3: TRUE COPY OF REPLY DATED 21/08/2009.

EXT.P4: TRUE COPY NOTICE DATED 25/08/2009.

EXT.P5: TRUE COPY OF REPLY DATED 07/10/2014.

EXT.P6: TRUE COPY OF THE PENALTY ORDER DATED 24/10/2014.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.4712 OF 2015 (L)

Dated this the 13th day of February, 2015

J U D G M E N T

The petitioner, who is a telecommunication service provider, is a registered dealer under the KVAT Act. In the writ petition, the petitioner is aggrieved by Ext.P6 penalty order passed by the respondent, which, according to the petitioner, does not contain any reasons and has been passed without hearing the petitioner.

2. I have heard Sri.A.Kumar, 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 find that, in Ext.P6 order, the respondent does not give any reasons as to why the penalty amounting to twice the amount of tax alleged to be evaded has to be imposed on the petitioner. In fact, it is an order which does not contain any discussion on the objections filed by the petitioner and

does not refer to any provision or decision on the basis of which he has come to his conclusion. In that view of the matter, Ext.P6 order cannot be legally sustained. Accordingly, Ext.P6 order is quashed and the respondent is directed to reconsider the matter after noting the objections of the petitioner and after affording him an opportunity of hearing. The respondent shall thereafter proceed to pass a detailed order containing reasons 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