IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).NO. 4867 OF 2015 (G)

PETITIONER(S):

SATHYAM AUDIOS,
XL/1260, T.D. ROAD, ERNAKULAM, PIN-682 011,
REPRESENTED BY SRI.A.G.PREMACHANDRAN,
PROPRIETOR.

BY ADVS.SRI.VIJAYAN. K.U.,
SRI.K.V.VIMAL.

RESPONDENT(S):
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1. **COMMERCIAL TAX OFFICER, IIIRD CIRCLE,**
   COMMERCIAL TAXES, ERNAKULAM,
   KOCHI-682 018.

2. **AUTHORITY FOR CLARIFICATIONS, COMMERCIAL TAXES,**
   OFFICE OF THE COMMISSIONER FOR COMMERCIAL TAXES,
   TAX TOWERS, KILLIPALAM, THIRUVANANTHAPURAM-695 001.

3. **STATE OF KERALA,**
   REPRESENTED BY SECRETARY TO GOVERNMENT,
   TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM -695 001.

BY GOVT. PLEADER SRI.SUDHEESH KUMAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).NO. 4867 OF 2015 (G)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1:	TRUE COPY OF THE LEDGER ACCOUNT SHOWING PAYMENT OF SERVICE TAX FOR THE YEAR 2012-13 BY THE PETITIONER.
EXT.P2:	TRUE COPY OF THE SAMPLE AGREEMENT ENTERED INTO BY THE PETITIONER WITH MALAYALA MANORAMA COMPANY LTD. WITH EFFECT FROM 16.07.2013.
EXT.P3:	TRUE COPY OF THE NOTICE NO.32071784422/2012-13 DATED 06.11.2014 ISSUED BY THE 1ST RESPONDENT.
EXT.P4:	TRUE COPY OF THE OBJECTIONS SUBMITTED BY THE PETITIONER DATED 10.12.2014.
EXT.P5:	TRUE COPY OF THE FINALIZED ESCAPED ASSESSMENT ORDER FOR THE YEAR 2012-13 RAISED BY THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No. 4867 of 2015 (G)

...

Dated this the 24th day of February, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P5 assessment order under the Kerala Value Added Tax Act, 2003 for the assessment year 2012 - 2013. The grievance of the petitioner in the writ petition is that Ext.P5 assessment order was passed by the 1st respondent without affording the petitioner an opportunity of hearing. It is contended that Ext.P5 assessment order is therefore, vitiated on account of a non-compliance with the rules of natural justice.

2. I have heard Sri.K.U.Vijayan, learned counsel for the petitioner and Sri.Sudheesh Kumar, learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I find that in Ext.P5 order there is no reference to any hearing that was afforded to the petitioner prior to the passing of Ext.P5 order. It is not in dispute that, the petitioner had through Ext.P4 reply to the notice served on him, sought a personal hearing before proceeding further in the matter. Inasmuch as, the 1st respondent had proceeded to pass Ext.P5 order without graning

a hearing, I find that the order is vitiated on account of a non-compliance with the rules of natural justice. Accordingly, I quash Ext.P5 and direct the 1st respondent to pass fresh orders of assessment for the assessment year 2012 - 2013 in relation to the petitioner, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner.

To enable the 1st respondent to do so, I direct the petitioner to appear before the 1st respondent at 11 a.m. on 10.03.2015.

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/24/02/