IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WP(C).No. 5193 of 2015 (Y)
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PETITIONER :
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M/S. ST. ANTONY'S CARS (P) LTD.,
XII/268, MUNDAKKAL, S.N.COLLAGE JUNCTION,
KOLLAM-691 001, REPRESENTED BY ITS DIRECTOR,
SRI.KAFEEL REYNOLD.

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT(S):
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1. ASSISTANT COMMISSIONER (ASSMNT.),
   SPECIAL CIRCLE, COMMERCIAL TAXES OFFICE COMPLEX,
   ASRAMOM, KOLLAM-691 002.

2. THE TAHSILDHAR,
   KOLLAM TALUK, CIVIL STATION, KOLLAM-691 001.

3. DEPUTY COMMISSIONER (APPEALS),
   COMMERCIAL TAXES OFFICE COMPLEX, ASRAMOM,
   KOLLAM-691 002.

4. COMMISSIONER OF COMMERCIAL TAXES,
   TAX TOWER, KARAMANA P.O., THIRUVANANTHAPURAM-695 033.

R1 TO R4 BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).NO.5193/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE ASSESSMENT ORDER DATED 25/10/2013, ISSUED TO THE PETITIONER BY THE 1ST RESPONDENT, FOR 2012-13 UNDER THE KVAT ACT, UNDER SCRUTINY WITH KVATIS.

P2 COPY OF THE APPLICATION DATED 27/01/2014, SUBMITTED BEFORE THE 1ST RESPONDENT FOR RECTIFICATION OF MISTAKES IN EXT.P1 U/S. 66 OF THE KVAT ACT.

P3 COPY OF THE CIRCULAR NO.C1-45370/09/CT DATED 16/11/2009 ISSUED BY 4TH RESPONDENT, DIRECTING ASSESSING AUTHORITY, NOT TO COMPLETED SCRUTINY ASSESSMENT UNDER KVATIS FOR MISMATCH IN DATA UPLOADED, POINTED OUT IN EXT.P2 BY THE PETITIONER.

P4 COPY OF THE LETTER DATED 31/03/2014, COMMUNICATED TO THE PETITIONER ON 18/06/2014, IN REJECTING EXT.P2 APPLICATION ON A MECHANICAL MANNER, EVEN WITHOUT CONSIDERING A SINGLE CONTENTION, READ AND REJECTED, ON THE MAIN GROUND THAT THE PETITIONER ALREADY FILED IN APPEAL AGAINST EXT.P1 ORDER.

P5 COPY OF THE LETTER DATED 15/07/2014 COMMUNICATED TO THE PETITIONER UNDER RIGHT TO INFORMATION ACT, 2005 BY THE 3RD RESPONDENT, AGAINST INFORMATION SOUGHT, BY THE PETITIONER, WHETHER ANY APPEAL FILED BY THE PETITIONER, PENDING FOR 2012-13, IN AN APPEAL AGAINST EXT.P1

P6 COPY OF THE REVENUE RECOVERY NOTICE IN FORM NO.1 DATED 13/01/2014 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT, PURSUANT TO THE DEMAND IN EXT.P1

P6(A) COPY OF THE REVENUE RECOVERY NOTICE IN FORM NO.10 DATED 13/01/2014 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT, PURSUANT TO THE DEMAND IN EXT.P1

P7 COPY OF THE TERMINATION LETTER ISSUED BY HYUNDAI MOTOR INDIA LTD., CHENNAI, ISSUED TO THE PETITIONER.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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**A.K.JAYASANKARAN NAMBIAR, J.**

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W.P.(C).No.5193 of 2015

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Dated this the 19th day of February, 2015

**J U D G M E N T**

The petitioner is aggrieved by Ext.P4 order passed by the 1st respondent, in a rectification application that was filed by the petitioner seeking rectification of certain mistakes that had occurred in Ext.P1 assessment order passed by the said respondent. According to the petitioner, the mistakes that have been pointed out in Ext.P1 order have not been considered by the 1st respondent and Ext.P4 is an order that is passed mechanically without specifically adverting to the contentions of the petitioner in the rectification application.

2. I have heard Sri.Tomson T.Emmanuel, the learned counsel for the petitioner and Sri.Sudheesh Kumar, the learned Government Pleader 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.P4 order, the 1st respondent has considered the objections of the petitioner, against Ext.P1 order, in detail. The 1st respondent has also given reasons for not acceding to the various requests of

the petitioner for rectification of mistakes in Ext.P1 order. In that view of the matter, I do not see any scope for interfering with the said order in these proceedings under Article 226 of the Constitution of India. I am of the view that the petitioner has an effective alternate remedy against Ext.P1 assessment order, read with the Ext.P4 rectification order, before the appellate authority under the Kerala Value Added Tax Act. Hence, without prejudice to the right of the petitioner to move the appellate authority under the Kerala Value Added Tax Act through duly constituted appeals, I dismiss the writ petition in its challenge against Ext.P1 and P4 orders.

4. Counsel for the petitioner would submit that he will move the appellate authority through a duly constituted appeal within a period of two weeks from the date of receipt of a copy of this judgment. He, however, apprehends that recovery action, for recovery of the amounts confirmed against him by Ext.P1 order, may be pursued in the meanwhile. Taking note of the said submission, I make it clear that further proceedings pursuant to Exts.P6 and P6(a) notices shall be kept in abeyance for a period of two weeks from today so as to enable the petitioner to approach the appellate authority for redressal of his grievances against

Exts.P1 and P4 orders.

The Writ petition is disposed as above.

**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

mns/