IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WP(C).No. 5392 of 2015 (Y)

PETITIONER(S):

M/S.SHIVANI DESIGNER HARDWARE
SEEMA BUILDING, NEAR PADMA JU., ERNAKULAM
PIN- 682035 REPRESENTED BY IS MANAIGNG
PARTNER V. SIVANATHA BHAT

BY ADV. SRI.MOHAMMED RAFIQ

RESPONDENT(S):
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1. **THE ASSISTANT COMMISSIONER(ASSESSMENT)**
   COMMERCIAL TAXES, SPECIAL CIRCLE-1, ERNAKULAM
   PIN-682015

2. **THE INSPECTING ASSISTANT COMMISSIONER**
   COMMERCIAL TAXES, ERNAKULAM PIN-682030

3. **THE STATE OF KERALA**
   REPRESENTED BY THE SECRETARY, COMMERCIAL TAXES
   DEPARTMENT, TRIVANDRUM PIN-695001

R BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 5392 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: THE TRUE COPY OF THE NOTICE NO.32070276494/08-09 DATED 14.11.2014 ISSUED BY THE 1ST RESPONDENT

EXT.P2: THE TRUE COPY OF THE OBJECTION DATED 01.12.2014 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT

EXT.P3: THE TRUE COPY OF THE ASSESSMENT ORDER NO. 32070276494/08-09 DATED 4.12.2014 PASSED BY THE 1ST RESPONDENT

EXT.P4: THE TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE KERALA REVENUE RECOVERY ACT, 1968 DATED 23.01.2015 ISSUED BY THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

PS. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5392 OF 2015 (Y)

Dated this the 20th day of February, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P3 order passed by the 1st respondent, completing the assessment of the petitioner under the Central Sales Tax Act for the assessment year 2008-09. The sole ground on which Ext.P3 is impugned in the writ petition is that the said order was passed in violation of the rules of natural justice in that the petitioner was not afforded an opportunity of hearing prior to passing of the said order.

2. I have heard Sri.Mohammed Rafiq, the learned counsel appearing for the petitioner as also Sri.Sudheesh Kumar, 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.P3 order, while the 1st respondent refers to the reply filed by the petitioner to the notice issued to him, it is evident that there was no

hearing afforded to the petitioner despite the petitioner having specifically requested for an opportunity of hearing. In that view of the matter, Ext.P3 order is vitiated on account of non-compliance of the rules of natural justice. Accordingly, I quash Ext.P3 order as also Ext.P4 demand notice and direct the 1st respondent to pass fresh orders of assessment under the CST Act for the assessment year 2008-09 in respect of the petitioner, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. The petitioner shall appear before the 1st respondent at 11.00 a.m. on 23.3.2015 for this purpose.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp