IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 5747 of 2015 (P)

PETITIONER(S):

M/S.SUPER NOVA PLYWOODS,
KUTTIPADAM, ALLAPPARA P.O., PERUMBAVOOR
REPRESENTED BY ITS PARTNER, C.A.RASHEED, S/O.ANIKUTTY
AGED 40 YEARS, RESIDING AT CHIRAKKAKUDY HOUSE, ORNA,
ALLAPRA P.O. PERUMBAVOOR, ERNAKULAM DISTRICT.

BY ADVS.SRI.K.M.FIROZ
SMT.M.SHAJNA
SRI.S.KANNAN

RESPONDENT(S):

THE COMMERCIAL TAX OFFICER,
2ND CIRCLE, PERUMBAVOOR, ERNAKULAM DISTRICT - 683 542.

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 5747 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. A TRUE COPY OF THE ASSESSMENT ORDER FOR 2007-08 (CST) DATED 16.09.2014 ISSUED BY THE RESPONDENT TO THE PETITIONER.
EXHIBIT P2. TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE RESPONDENT FOR THE ASSESSMENT YEAR 2007-08 (CST) TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5747 OF 2015 (P)

Dated this the 19th day of March, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P1 assessment order passed under the Central Sales Tax Act in relation to the petitioner for the assessment year 2007-08. The contention of the petitioner in the writ petition is essentially that, prior to passing Ext.P1 order, the petitioner was not served with the pre-assessment notice or heard in the matter.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing for the respondent.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that although the Government Pleader would submit, on instructions, that a pre-assessment notice dated 16.4.2014 was served on the petitioner on 28.8.2014, in Ext.P1 order, there is no reference to the said notice that is stated to have been served on the petitioner. That apart, Ext.P1 order itself indicates that there was no consideration of any reply filed by the petitioner, and further, that the petitioner was not heard prior to passing of the said order. Under the said circumstances, I am of the view that Ext.P1 order is vitiated by a non-compliance with the principles of natural justice, and, accordingly, I quash Ext.P1 order and direct the respondent to pass fresh orders of assessment under the CST Act, in relation to the petitioner, for the assessment year 2007-08, after hearing the petitioner, within a period of two months from the date of receipt of a copy of this judgment. To enable the respondent to do this, I direct the petitioner to appear before the respondent at 11.00 a.m. on 30.3.2015. It will be open to the petitioner to file any written representation, detailing the objections of the petitioner to the proposed assessment, at the time of hearing before the respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp