IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No.6573 of 2015 (V)
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PETITIONER:
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ELEGANT COMPUTER SOLUTIONS,
DOOR NO.44/2201,ST.ANTONY'S CHURCH ROAD,
KALOOR P.O.,ERNAKULAM DISTRICT-682 017,
REPRESENTED BY ITS MANAGING PARTNER
MR.JIJI VARGHESE.

BY ADVS.SRI.SHAJI CHIRAYATH
SMT.JIJI M. VARKEY
SMT.SAVITHA GANAPATHIYATAN
SRI.M.M.SHAJAHAN

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY THE COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM-695 001.

2. COMMERCIAL TAX OFFICER (V),
2ND CIRCLE,KALAMASSERY
AT CIVIL STATION,KAKKANAD P.O.
ERNAKULAM DISTRICT-682 030.

BY GOVT. PLEADER SRI.SUDHEESH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03-03-2015,ALONG WITH W.P(C) NO.6574/2015 AND W.P(C) NO.6575/2015 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

**WP(C).No.6573 of 2015 (V)**
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**<u>APPENDIX</u>**

**PETITIONER'S EXHIBITS:**
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**EXT.P1:COPY OF THE ORDER UNDER SECTION 67 OF THE KERALA VALUE ADDED TAX ACT 2003 ISSUED BY THE 2ND RESPONDENT.**

**RESPONDENT'S EXHIBITS: NIL**
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**//TRUE COPY//**

**P.S.TO JUDGE**

**pk**

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

**............................................**

**W.P.(C) Nos. 6573, 6574 & 6575 of 2015**

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Dated this the 3rd day of March, 2015

**JUDGMENT**

The challenge in these writ petitions is against Ext.P1 order passed by the 2nd respondent imposing a penalty of Rs.10,000/- on the petitioner under Section 67 of the Kerala Value Added Tax Act, 2003.

2. The challenge against Ext.P1 order is mainly on the ground that, before passing Ext.P1 order, the petitioner was not served with a notice or afforded an opportunity of hearing. I note, however, from Ext.P1 order, that a notice dated 04.11.2014 was issued to the petitioner and he had not responded to the notice, thereby forcing the 2nd respondent to pass Ext.P1 order imposing the penalty.

3. I have heard Sri.Shaji Chirayath, learned counsel for the petitioner and Sri.Sudheesh Kumar, learned Government Pleader for the respondents.

4. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find that against Ext.P1 order, that is impugned in the writ petitions, the petitioner has an effective alternate remedy by way of a revision,

before the revision authority under the KVAT Act. The points urged in the writ petition are those that can be urged before the revision authority, for the purposes for setting aside the orders imposing the penalty. Although, the petitioner would dispute the service of notice on him, in the instant cases, I am of the view that, considering the amount of penalty that has been imposed on the petitioner, this is not a fit case for this Court to embark upon a factual investigation, with regard to the service of notice on the petitioner, in proceedings under Article 226 of the Constitution of India. Resultantly, without expressing any view on the merits of Ext.P1 order, and relegating the petitioner to the alternate remedy of filing a revision under the KVAT Act against Ext.P1 order, the writ petitions, to the extent they challenge the said orders, are dismissed.

Sd/-
**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

AMV/03/03/