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. 6579 of 2015 (V)

PETITIONER :

M/S. STAR TRADING COMPANY
PERIMBADARI P.O., MANNARKKAD, PALAKKAD - 678782
REPRESENTED BY ITS MANAING PARTNER
ABDUL MEHABOOB

BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V. MENON

RESPONDENT(S) :
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1. COMMERCIAL TAX OFFICER-1
MANNARKKAD - 678121

2. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, TAXES DEPARTMENT
GOVERNMENT SECRETARIAT, THRIUVANANTHAPURAM-695001

R1 & R2 BY GOVT. PLEADER SRI. SUDHEESH KUMAR

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

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...2/-

WP(C).No. 6579 of 2015 (V)

APPENDIX

PETITIONERS' EXHIBITS :

EXT.P1:	**COPY OF RETURN FILED BY THE PETITIONER FOR THE YEAR 2012-13 DATED 4-5-2013.**
EXT.P2:	**COPY OF NOTICE ISSUED BY THE 1ST RESPONDENT DATED 29-12-2014.**
EXT.P3:	**COPY OF REPLY FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 10-1-2015.**
EXT.P4:	**COPY OF NOTICE ISSUED BY THE 1ST RESPONDENT DATED 14-1-2015.**
EXT. P5:	**COPY OF REPLY FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 5-2-2015.**
EXT.P6:	**COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DATED 7-2-2015.**

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. 6579 of 2015 (V)

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Dated this the 3rd day of March, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P6 assessment order passed in relation to the petitioner for the assessment year 2012 - 2013.

2. The main ground of challenge against Ext.P6 order is that, while the petitioner had, in response to the pre-assessment notice served on him, filed a detailed reply referring to the various documents that he had in his possession to substantiate his contention on merits, the 1st respondent while passing Ext.P6 order did not advert to the said documents relied upon by the petitioner in his reply. It is submitted that, it was on account of the lapse on the part of the 2nd respondent that the assessment came to be confirmed against the petitioner and a huge demand raised therein.

3. I have heard Sri.Harisankar V. Menon, 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 in the instant

case, while Ext.P6 order does not fully refer to the various contentions taken by the petitioner in the reply filed to the pre-assessment notice, the petitioner was afforded an opportunity of being heard, which opportunity he did not admittedly avail before the 2nd respondent authority. In that view of the matter, I feel that, the petitioner should be relegated to the alternate remedy of filing an appeal against Ext.P6 order, before the appellate authority under the Kerala Value Added Tax Act, 2003, [for short, 'KVAT Act']. Thus, without expressing any view on the merits of Ext.P6 order, I relegate the petitioner to the appellate remedy of filing an appeal before the appellate authority under the KVAT Act against Ext.P6 order. The writ petition in its challenge against the said order fails and it is accordingly dismissed.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/03/03/