

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 7071 of 2015 (H)

PETITIONER(S):

**N.R.PATEL AND COMPANY,
ENGINEERS AND CONTRACTORS, FIRST FLOOR,
DESABANDHU PLAZA, CHENNAI - 600 014,
REPRESENTED BY MANAGER, R.MADHU.**

**BY ADVS.SRI.R.ANILKUMAR
SRI.P.M.RAJAGOPAL**

RESPONDENTS:

- 1. ASSISTANT COMMISSIONER OF WORKS CONTRACT
COMMERCIAL TAXES, THIRUVANANTHAPURAM - 5.**
- 2. STATE OF KERALA
REPRESENTED BY COMMISSIONER OF COMMERCIAL
TAXES PUBLIC OFFICE,
THIRUVANANTHAPURAM, PIN - 695 001.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1: THE TRUE PHOTOCOPY OF THE ASSESSMENT ORDER NO.
32011397864 DATED FOR THE ASSESSMENT ORDER DATED 22/08/2014
FOR THE ASSESSMENT YEAR 2008 - 2009.**

**EXT.P2: THE TRUE PHOTOCOPY OF THE ASSESSMENT ORDER NO.
32011397864 DATED FOR THE ASSESSMENT ORDER DATED 22/08/2014
FOR THE ASSESSMENT YEAR 2009 - 2010.**

**EXT.P1(B): THE TRUE PHOTOCOPY OF THE ASSESSMENT ORDER NO.
32011397864 DATED FOR THE ASSESSMENT ORDER DATED 22/08/2014
FOR THE ASSESSMENT YEAR 2010 - 2011.**

**EXT.P1(C): THE TRUE PHOTOCOPY OF THE ASSESSMENT ORDER NO.
32011397864 DATED FOR THE ASSESSMENT ORDER DATED 22/08/2014
FOR THE ASSESSMENT YEAR 2011 - 2012.**

EXT.P2: THE TRUE PHOTOCOPY OF THE REPRESENTATION DATED 13/01/2015.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 7071 of 2015

Dated this the 31st day of March, 2015

JUDGMENT

The petitioner, who is stated to be entitled to certain amounts by way of refund of KVAT paid by him in excess in the past, is aggrieved by the inaction on the part of the respondent in not issuing the refund amounts to him. It is stated that he has filed Ext.P2 representation before the 1st respondent narrating the said fact, but the 1st respondent has not passed any orders on the said representation. It is under these circumstances, that he has approached this Court with the present writ petition, seeking a direction to the respondent to sanction the refund amount together with interest thereon.

2. I have heard the learned counsel appearing for the petitioner and the learned Government Pleader appearing for the respondents as well.

3. The learned Government Pleader, on instructions, would submit that the assessment of the petitioner for the assessment year 2012-13 is also pending finalisation, and on finalising the same, and determining the liability of the petitioner for the said assessment year, the amounts due from the petitioner

would be reduced from the amounts, that are due to the petitioner by way of refund, and the balance would be refunded to him. It is the submission of the learned Government Pleader that, a direction may be issued to the 1st respondent to consider and pass orders on Ext.P2 representation in the meanwhile, so as to finalise the status with regard to the refund claim.

4. On a consideration of the facts and circumstances of the case and the submissions made across the bar, and taking note of the submission of the learned Government Pleader, I direct the 1st respondent to consider and pass orders on Ext.P2 representation within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. The 1st respondent shall compute the total refund amount, that is due to the petitioner together with upto-date interest, as contemplated under Section 89 of the KVAT Act. The said computation has to be done by the 1st respondent so as to determine the amount of refund, that is due to the petitioner, so that the said amount, after deduction of the amounts due from the petitioner pursuant to finalisation of the assessment for 2012-13, can be refunded to the petitioner, immediately thereafter.

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The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das