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.7100 of 2015 (J)

PETITIONER:

P.K.SHANAVAZ,PROPRIETOR,
M/S.PIONEER LATEX INDUSTRIES,
PALAPARAMBA ROAD,KUTHUPARAMBA P.O,
KANNUR - 670 643.

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

RESPONDENTS:
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1. **ASST.COMMISSIONER (KVAT)-I,**
   COMMERCIAL TAXES SPECIAL CIRCLE,
   KANNUR - 670 002.

2. **THE COMMERCIAL TAX OFFICER,**
   COMMERCIAL TAX OFFICE,
   KUTHUPARAMBA - 670 101.

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

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

pk

WP(C).No.7100 of 2015 (J)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:COPY OF ORDER ISSUED BY THE KERALA VALUE ADDED TAX APPELLATE TRIBUNAL,PALAKKAD DATED 11.04.2013.

EXT.P2:COPY OF LETTER FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 03.06.2013.

EXT.P3:COPY OF LETTER FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 28.02.2015.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 7100 of 2015

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Dated this the 19th day of March, 2015

JUDGMENT

The petitioner, who is an assessee under the Kerala Value Added Tax Act (hereinafter referred to as 'KVAT Act'), is aggrieved by the action of the respondents in blocking the on-line facility available to dealers, for non-compliance of certain directions in Ext.P1 appellate order. It is the case of the petitioner that, there is no order against him, pursuant to Ext.P1 order of the Tribunal remanding the matter to the lower authority and hence, there is no crystallized demand, for non-payment of which the on-line facility has been blocked.

2. I have heard Sri,.Harisankar V.Menon, the learned counsel for the petitioner and also Smt.Sobha Annamma Eappen, the learned Government Pleader appearing for the respondents.

3. The learned Government Pleader would submit, on instructions, that it was on noticing that the petitioner had not complied with the directions of the Tribunal in Ext.P1 order, that the respondents had initiated steps for blocking the on-line facility. She would submit that, it is a fact that no consequential order, pursuant to Ext.P1 order of the Tribunal, has been passed till date

by the respondents.

4. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that as of now, and pursuant to Ext.P1 order of remand by the Tribunal, there is no order, that would justify the action of the respondents in blocking the on-line facility available to the petitioner in his capacity as a dealer, under the KVAT Act. In the absence of any material to suggest that the petitioner is a defaulter in payment of tax amounts to the department, the on-line facility cannot be blocked. Resultantly, the writ petition is allowed, by directing the respondents to restore the on-line facility to the petitioner forthwith. The respondents shall ensure that the petitioner gets access to the on-line facility within an outer limit of 3 days from today.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

das