

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 7677 of 2015 (H)

PETITIONER(S):

**M/S.HOMESTEAD PROJECTS & DEVELOPERS PVT. LTD.,
7/109, A2, ZENITH ARCADE, EAST BAZAR, MALAPPURAM,
REPRESENTED BY ITS AUTHORISED SIGNATORY,
ABDULLATHEEF KAINIKKARA, MANAGING DIRECTOR.**

BY ADV. SRI.JOSE JACOB.

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
COMMERCIAL TAXES, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM, KERALA-695 001.**
- 2. COMMERCIAL TAX OFFICER (WORKS CONTRACT),
OFFICE OF THE DEPUTY COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
MALAPPURAM-676 505.**
- 3. ARC CONSTRUCTIONS,
DOOR NO.15/395, VARIKODAN BUILDING,
INDUSTRIAL ESTATE ROAD, MANJERI-676 505.**

R1 & R2 BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1 : COPY OF NOTICE UNDER SECTION 25(1) RELATING TO AY 2009-10
DTD. 10.12.2014.
- P1(A) : COPY OF NOTICE UNDER SECTION 25(1) RELATING TO AY 2010-11
DTD. 10.12.2014.
- P2 : COPY OF NOTICE ISSUED TO OTHE RESPONDENT NO.3 DTD. 29.11.2012.
- P2(A) : COPY OF NOTICE ISSUED TO THE RESPONDENT NO.3 DTD. 19.01.2013.
- P2(B) : COPY OF NOTICE ISSUED TO THE RESPONDENT NO.3 DTD. 01.02.2013.
- P2(C) : COPY OF NOTICE ISSUED TO THE RESPONDENT NO.3 DTD. 30.03.2014.
- P3 : COPY OF THE FORM 20H OBTAINED FROM THE RESPONDENT NO.3.
- P4 : COPY OF THE REPLY TO NOTICE SECTION 25(1) RELATING TO AY 2009-10
DTD. 16.01.2015.
- P4(A) : COPY OF THE REPLY TO NOTICE SECTION 25(1) RELATING TO AY 2010-11
DTD. 16.01.2015.
- P5 : COPY OF THE ORDER AND DEMAND NOTICE RELATING TO AY 2009-10
DTD. 12.02.2015.
- P5(A) : COPY OF THE ORDER AND DEMAND NOTICE RELATING TO AY 2010-11
DTD. 12.02.2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.7677 OF 2015 (H)

Dated this the 23rd day of March, 2015

J U D G M E N T

The challenge in the writ petition is against Exts.P5 and P5(a) orders passed by the 2nd respondent. The main ground of challenge against Exts.P5 and P5(a) orders in the writ petition is that before passing the said orders, the petitioner was not afforded an opportunity of being heard.

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

On a consideration of the facts and circumstances of the case as also submissions made across the bar, I find that while in Exts.P5 and P5(a) orders, the 2nd respondent refers to the reply dated 16.1.2015 that was submitted by the petitioner to the notices issued to him, there is no reference to any hearing that was given to the petitioner prior to passing of Exts.P5 and P5(a) orders. In that view of the

matter, the said orders are vitiated by a non-compliance with the rules of natural justice. Accordingly, I quash Exts.P5 and P5(a) orders and direct the 2nd respondent to pass fresh orders of assessment in relation to the petitioner for the assessment years 2009-10 and 2010-11 under the KVAT Act, after hearing the petitioner, within a period of two months from the date of receipt of a copy of this judgment. To enable the 2nd respondent to do this, I direct the petitioner to appear before the 2nd respondent at 11.00 a.m. on 16.4.2015.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp