IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No. 7963 of 2015 (U)

PETITIONER(S):

M/S.NIRMAL ASSOCIATES
BYE PASS ROAD, ERANHIPALAM P.O., CALICUT - 673 006
REPRESENTED BY ITS PARTNER, K. BALAKRISHNAN.

BY ADVS.SRI.K.M.FIROZ
SMT.M.SHAJNA
SRI.S.KANNAN

RESPONDENT(S):

THE COMMERCIAL TAX OFFICER
3RD CIRCLE, KOZNIKODE - 673 001.

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 7963 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT-P1-TRUE COPY OF THE NOTICE DATED 02/02/2015 ISSUED BY THE RESPONDENT U/S 25(1) BEARING NO. 32110824622/2008-2009
EXHIBIT-P2-TRUE COPY OF THE NOTICE FOR THE ASSESSMENT YEAR 2009-2010 ISSUED BY THE RESPONDENT UNDER SECTION 25(1) DATED 02/02/2015.
EXHIBIT-P3-TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER DATED 20/02/2015 TO NOTICE DATED 20/02/2015 TO THE NOTICE DATED 02/02/2015 ISSUED BY THE RESPONDENT U/S 25(1) BEARING NO. 32110824522/2008-2009
EXHIBIT-P4-TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER DATED 20/02/2015 TO THE NOTICE FOR THE ASSESSMENT YEAR 2009-2010 ISSUED BY THE RESPONDENT
EXHIBIT-P5-TRUE COPY OF THE RELEVANT PAES OF THE LETTER DELIVERY BOOK
EXHIBIT-P6-TRUE COPY OF THE NOTICE FOR THE YEAR, 2008-2009 DATED 25/02/2015.
EXHIBIT-P7-TRUE COPY OF THE NOTICE FOR THE YEAR 2009-2010, DATED 25/02/2015.
EXHIBIT-P8-TRUE COPY OF THE LETTER DATED 04/03/2015, IN RESPECT OF THE YEAR 2008-2009
EXHIBIT-P9-TRUE COPY OF THE LETTER DATED 04/03/2015 IN RESPECT OF THE YEAR 2009-2010.

RESPONDENT(S)' EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.7963 OF 2015 (U)

Dated this the 18th day of March, 2015

J U D G M E N T

Challenge in the writ petition is against Exts.P1 and P2 notices that have been issued to the petitioner in connection with an assessment under the Kerala Value Added Tax Act, hereinafter referred to as the 'KVAT Act'. The challenge in the writ petition is mainly on the ground that the assessing authority does not have the jurisdiction to proceed against the petitioner under the KVAT Act. The petitioner also has a contention with regard to the limitation provisions under the KVAT Act, in that, according to him, some of the notices are barred by the period of limitation under Section 25(1) of the KVAT Act. On a consideration of the objections raised by the petitioner, I am of the view that the petitioner can be relegated to the alternate remedy of raising the said contentions before the Assessing authority, in response to the notices that have been served on him. Interference with the said notices at this stage is not called for in these proceedings under Article 226 of the Constitution of India. Thus, without pronouncing on the legality of the notices issued to the petitioner, I relegate the petitioner to the alternate remedy of responding to the said notices by raising all his objections before the authority who issued the notices to the petitioner. The writ petition, in its challenge against the notices, at this stage, is premature and dismissed as such.

Learned senior counsel for the petitioner would submit that he would require some more time to file objections to the notices that are impugned in the writ petition. Taking note of the said submission, I make it clear that if the petitioner files objections to the impugned notices within ten days from today, then the said objections shall also be considered by the respondent before finalising the proceedings pursuant to the impugned notices.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp