

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 8520 of 2015 (L)

PETITIONER(S):

**V.BALAKRISHNAN, M/S.ACCURATE ENGINEERS & SYSTEMS
IIND FLOOR,
PKM MANZIL BUILDING T.D.ROAD, ERNAKULAM.**

**BY ADVS.SMT.S.K.DEVI
SRI.M.RAJ MOHAN
SRI.SANTHOSH P.ABRAHAM
SRI.SHANMUGHAM D. JAYAN
SMT.P.K.MAYA DEVI**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER II DEPT. OF COMMERCIAL TAXESD,
II CIRCLE, ERNAKULAM.**
- 2. STATE OF KEFRALA, REPRESENTED BY ITS FINANCE SECRETARY,
SECRETGARIAT, THIRUVANANTHAPURAM-695 001.**

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 8520 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE ORDER NO.3207169966722/09- 10 DATED 27.12.2013.

EXT.P2: TRUE COPYU OF A STATEMENT SHOWING THE DETAILS OF TRANSACTION.

EXT.P3: TRUE COPY OF TEH E1 FORM.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.8520 OF 2015 (L)

Dated this the 24th day of March, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P1 order passed by the 1st respondent. The main ground of challenge against Ext.P1 order is that the order was passed after a considerable lapse of time from the date of hearing, and further the said order, although appears to be passed by one officer, was in fact signed by the successor in office.

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

3. The learned Government Pleader, on instructions, would submit that there was an inadvertent error occasioned by the respondents, in that, while Ext.P1 order was in fact signed by the officer who passed the order, the signed copy of that order was not served on the petitioner, whereas it was a copy of the said order which was counter signed by the successor in the office that was served on the petitioner.

4. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I am of the view that Ext.P1 order as communicated to the petitioner, cannot be legally sustained for more reasons than the one. While the said order was signed by an officer, other than the one who initially passed the order, , it is also a fact that the hearing that was conducted in the case was in the year 2013 and the order was communicated to the petitioner only in the year 2015. Under the circumstances, I quash Ext.P1 order and direct the 1st respondent to pass fresh orders of assessment in relation to the petitioner for the assessment year 2009-10, after hearing the petitioner, within a period of two months from the date of receipt of a copy of this judgment. To enable the 1st respondent do so so, I direct the petitioner to appear before the 1st respondent, at his office, at 11.00 a.m. on 7.4.2015.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp