IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 9320 of 2015 (L)

PETITIONER(S):

M/S.KERALA SMART KITCHEN, CHAVAKKAD,
THRISSUR DISTRICT-680 506
REPRESENTED BY ITS MANAGING PARTNER P.FAHAD

BY ADVS.SRI.P.N.DAMODARAN NAMBOODIRI
SMT.K.P.RANI

RESPONDENT(S):

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1. THE COMMERCIAL TAX OFFICER,
DEPARTMENT OF COMMERCIAL TAXES, CHAVAKKAD - 680 506.

2. THE INSPECTING ASST.COMMISSIONER
COMMERCIAL TAXES DEPARTMENT, IRINJALAKUDA - 680121.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 9320 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

P1- **TRUE COPY OF THE ANNUAL RETURN FOR THE YEAR 2012-2013 DATD 10.10.2014 FILED BY THE PETITIONEWR BEFORE THE FIRST RESPONDENT**

P2- **TRUE COPY OF THE AUDIT REPORT (FORM NO.13) DATED NIL SUBMITTED BY THE PETITIONER**

P3- **TRUE COPY OF THE NOTICE NO.32081176607/2012-2013 DATED 01.11.2014 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER**

P4- **TRUE COPY OF INVOICE OF M/S.MENONS DISTRIBUTORS NO.MD-836 DATED 1.3.2013 ISSUED TO THE PETITIONER**

P4A- **TRUE COPY OF INVOICE OF M/S.ST.THOMAS ENTERPRISES NO.STT1200944 DATED 6.11.2012, ISSUED TO THE PETITIONER**

P5- **TRUE COPY OF THE CIRCULAR NO.C1-45370/09/CT DATED 16.11.2009 ISSUED BY THE COMMISSIONEWR OF COMMERCIAL TAXES, THIRUVANANTHAPURAM.**

P6- **TRUE COPY OF THE ASSESSMENT ORDER NO.32081176607/2012-2013 DATED 20.12.2014 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER**

P7- **TRUE COPY OF THE STOPPAGE OF BUSINESS REPORTING LETTER DATED 6.3.2015 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.9320 of 2015

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Dated this the 25th day of March, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P6 order of assessment passed by the 1st respondent. The main ground of challenge against Ext.P6 in the writ petition is that the petitioner was not afforded a hearing before the passing of Ext.P6 order. It is also stated in the writ petition that, although the said order refers to a notice having been served on the petitioner on 30.12.2014, the order itself was passed on 20.12.2014, well before the date on which the notice was served on the petitioner.

2. I have heard the learned counsel for the petitioner and the learned government Pleader for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that in Ext.P6 order, there is no reference to any hearing that was afforded to the petitioner prior to the passing of Ext.P6 order. That apart, although the learned Government Pleader, on instructions, would submit that although a pre-assessment notice was served on the petitioner on 30.11.2014, there is no substantiation of this fact, through reference to any records or to any portion of the order that is impugned. Under the said circumstances, I am of the view that Ext.P6 order cannot be legally sustained, in as much as it is one that is passed in violation of the rules of natural justice. Accordingly, I quash Ext.P6 order, and direct the 1st respondent to complete the assessment in relation to the petitioner for the assessment year 2012-2013 afresh, 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 to do this, I direct the petitioner to appear before the 1st respondent at his office at 11 am on 18.04.2015.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns