

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. 9458 OF 2015 (F)

PETITIONER(S):

**K.P. PUSHPAN, M/S.THYAGI ENTERPRISES,
EDAVILANGU, KODUNGALLUR-680 671,
THRISSUR DISTRICT.**

BY ADV. SRI.P.N.DAMODARAN NAMBOODIRI.

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
DEPARTMENT OF COMMERCIAL TAXES,
KODUNGALLUR-680 664.**
- 2. DEPUTY COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
THRISSUR-680 609.**
- 3. THE INSPECTING ASST. COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
IRINJALAKKUDA-680 121.**
- 4. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**

BY GOVT. 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:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE ANNUAL RETURN DATED 20/05/2009 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P2 COPY OF THE AUDIT REPORT IN FORM 13 & 13A DATED 19/10/2009 SUBMITTED BY THE PETITIONER BEFORE THE 1S RESPONDENT.
- EXT.P3 COPY OF THE NOTICE ISSUED UNDER SECTION 25(1) OF KERALA VALUE ADDED TAX ACT, NO.32081088125/2008-09 DATED 18/06/2011 BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXT.P4 COPY OF THE REPLY DATED 23/06/2011 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P5 COPY OF THE NOTICE ISSUED UNDER SECTION 25A OF KERALA VALUE ADDED TAX ACT, NO.32081088125/2008-09 DATED 29/01/2015 BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXT.P6 COPY OF THE ADJOURNMENT DATED 10/02/2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P7 COPY OF THE REPLY DATED 25/02/2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P8 COPY OF THE ASSESSMENT ORDER ISSUED UNDER SECTION 25A OF KERALA VALUE ADDED TAX ACT, NO.32081088125/2008-09 DATED 10/03/2015 BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXT.P9 COPY OF THE INTERIM ORDER OF THE WRIT PETITION BEARING WP(C).NO.25278/2014 DATED 17/03/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 9458 of 2015

Dated this the 25th day of March, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P8 order of assessment passed by the 1st respondent in relation to the petition for the assessment year 2008-09 under the Kerala Value Added Tax Act, hereinafter referred to as 'KVAT Act'. The principle ground of challenge against Ext.P8 order in the writ petition is that the said order, which is passed pursuant to an audit objection under Section 25A of the KVAT Act, was passed without hearing the petitioner.

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

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I note that in Ext.P8 order, the 1st respondent has referred only to the reply submitted by the petitioner, in response to the notice issued to him under Section 25A of the KVAT Act. Although in the reply to the notice, the petitioner specifically requested for a personal hearing in the matter, the same does not appear to have been extended to the petitioner. In Ext.P8 order, there is no reference to any hearing

having been granted to the petitioner. Under such circumstances, I quash Ext.P8 order as one that is vitiated by a non-compliance with the rules of natural justice. I direct the 1st respondent to pass fresh orders in the matter, 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 so, I direct the petitioner to appear before the 1st respondent at his office, at 11 AM on 17.04.2015.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE