

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. 9542 OF 2015 (P)

PETITIONER:

**M/S. R.P.TELEBY SKYSHOP (P) LTD.
DOOR NO.2420A, FRIENDS ROAD,
DESHABHIMANI, KALOOR, KOCHI-682 017,
REPRESENTED BY ITS REGIONAL MANAGER
MR.PRINCE SUNNY.**

BY ADV. SRI.A.KUMAR

RESPONDENTS:

- 1. COMMERCIAL TAX OFFICER,
II CIRCLE, KALAMASSERY, CIVIL STATION,
KAKKANAD-682 030.**
- 2. THE ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
SPECIAL CIRCLE III, COMMERCIAL TAX COMPLEX,
ERNAKULAM, KOCHI 682 015.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
REVENUE RECOVERY, ERNAKULAM,
KANAYANOOR TALUK-682 011.**
- 4. COMMERCIAL TAX OFFICER (REVENUE RECOVERY)
ERNAKULAM, KANAYANOOR TALUK-681 011.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

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

AS

WP(C).NO. 9542 OF 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P1: COPY OF THE ORDER DATED 18.06.2014 RECEIVED BY THE
PETITIONER ON 04.03.2015.**

**EXT.P2: TRUE RECOVERY OF THE REVENUE RECOVERY NOTICE
DATED 28.01.2015.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

AS

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.9542 of 2015 (P)

.....
Dated this the 25th day of March, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P1 assessment order passed by the 1st respondent in relation to the petitioner for the assessment year 2008 - 2009 under the Kerala Value Added Tax Act, 2003.

2. The main ground of challenge against Ext.P1 order is that, the said order was passed without hearing the petitioner. It is also the case of the petitioner that, the assessment on best judgment basis was confirmed solely on the ground that, the audited statement and closing stock for the assessment year in question have not been filed by the petitioner. There is also a reference in Ext.P1 order to the O.R. filed that were forwarded to the office of the 1st respondent by the check post authorities.

3. I have heard Sri.A.Kumar, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

4. On a consideration of the facts and circumstances of the case and the submissions made across the Bar and in particular taking note of the fact that, Ext.P1 order was passed without

hearing the petitioner, I quash Ext.P1 as vitiated by a non compliance with the rules of natural justice. The writ petition is disposed with a direction to the 1st respondent to pass fresh orders of assessment in relation to the petitioner for the assessment year 2008 - 2009, within a period of two months from the date of receipt of a copy of this judgment, after affording an opportunity of hearing to the petitioner.

To enable the 1st respondent to do this, I direct the petitioner to appear before the 1st respondent at his office at 11 a.m. on 07.04.2015.

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/27/03/