

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

WP(C).No. 9745 of 2015 (P)

PETITIONER(S):

**SALICO TRADING CO. PVT. LTD.,
610, SECTOR 18B,
CHANDIGARH, REPRESENTED BY ITS AUTHORIZED
SIGNATORY SRI.ANIL KUMAR DATTA.**

**BY ADVS.SRI.RAJESH NAMBIAR
SRI.N.R.SAJ**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF COMMERCIAL TAXES, THIRUVANANTHAPURAM,
PIN - 695 001.**
- 2. COMMERCIAL TAX OFFICER,
1ST CIRCLE, ERNAKULAM - 676 529.**
- 3. DISTRICT COLLECTOR,
ERNAKULAM, PIN - 686 529.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
26-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE PRE-ASSESSMENT NOTICE DATED 18/10/2014 FOR THE YEAR 2011 - 2012.

EXT.P2: TRUE COPY OF THE PRE-ASSESSMENT NOTICE DATED 18/10/2014 FOR THE YEAR 2012 - 2013.

EXT.P3: TRUE COPY OF THE REPLIES SUBMITTED TO EXT.P1 PRE-ASSESSMENT NOTICE.

EXT.P4: TRUE COPY OF THE REPLIES SUBMITTED TO EXT.P2 PRE-ASSESSMENT NOTICE.

EXT.P5: TRUE COPY OF THE INTIMATION DATED 25/01/2011 OF CANCELLATION OF REGISTRATION.

EXT.P6: TRUE COPY OF THE NEW REGISTRATION CERTIFICATE.

EXT.P7: TRUE COPY OF THE RETURN SUBMITTED FOR THE YEAR 2011 - 2012.

EXT.P8: TRUE COPY OF THE RETURN SUBMITTED FOR THE YEAR 2012 - 2013.

EXT.P9: TRUE COPY OF THE LETTER DATED 11/11/2014.

EXT.P10: TRUE COPY OF THE NOTICE ISSUED BY THE ASST.COLLECTOR, CHANDIGARH FOR RECOVERY OF THE AMOUNT DUE UNDER EXT.P12 ASSESSMENT ORDER.

EXT.P11: TRUE COPY OF THE NOTICE ISSUED BY THE ASST.COLLECTOR, CHANDIGARH FOR RECOVERY OF THE AMOUNT DUE UNDER EXT.P13 ASSESSMENT ORDER.

EXT.P12: TRUE COPY OF THE ASSESSMENT ORDERS DATED 05/11/2014 FOR THE YEARS 2011 - 2012.

EXT.P13: TRUE COPY OF THE ASSESSMENT ORDERS DATED 05/11/2014 FOR THE YEARS 2012 - 2013.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.
=====

W.P.(C). No. 9745 of 2015
=====

Dated this the 26th day of March, 2015

JUDGMENT

The challenge in the writ petition is against Exts.P12 and P13 orders of assessment passed in relation to the petitioner for the assessment years 2011-12 and 2012-13 under the Kerala Value Added Tax Act, hereinafter referred to as 'KVAT Act'. The grievance of the petitioner in the writ petition is that, although the petitioner had responded to the pre-assessment notices issued to it by the 2nd respondent, the 2nd respondent had proceeded to pass Exts.P12 and P13 order, without affording the petitioner an opportunity of being heard and further, by not adverting to any of the contentions in the reply, although the contents of the reply have been extracted in the orders, that are impugned in the writ petition.

2. I have heard the learned counsel appearing for the petitioner and also 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 find that in Ext.P12 order, although the 2nd respondent extracts the contents of

the reply filed by the petitioner to the pre-assessment notice, there is no consideration of the objections vis-a-vis the proposal that was sought to be confirmed in Exts.P12 and P13 orders. Further, the order does not refer to any opportunity of hearing having been extended to the petitioner or his having been heard in the matter prior to passing of the said order. Under such circumstances, I am of the view that Exts.P12 and P13 orders cannot be legally sustained. Accordingly, I quash Exts.P12 and P13 orders as vitiated by a non-compliance with the rules of natural justice. I direct the 2nd respondent to pass fresh orders in relation to the petitioner for the assessment years 2011-12 and 2012-13 under the KVAT Act, after hearing the petitioner, within a period of two months from the date of receipt of a copy of this judgment. To enable the 2nd respondent to do so, I direct the petitioner to appear before the 2nd respondent at his office at 11 AM on 08.04.2015.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE