

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 10546 of 2015 (P)

PETITIONER(S):

**M/S.AURA JEWELLERS,
KALLIYATH ROYAL SQUARE,
PALACE ROAD, THRISSUR,
REPRESENTED BY ITS MANAGING PARTNER K.B.SREERAM.**

**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 TAXES, I CIRCLE,
THRISSUR 680001.**

**2.THE DEPUTY TAHASILDAR (RR)
THRISSUR 680020.**

**3.STATE OF KERALA
REPRESENTED BY ITS FINANCE SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM 695 001.**

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C).NO.10546/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF ONE OF THE ORDER NO.32080542737/14-15 DATED 6.11.2014.

EXT.P2: COPY OF THE APPELLATE ORDER NOS.KVATA 623, 624, 625 AND 626/2014 DATED 31.1.2015.

EXT.P3: COPY OF THE LETTER NO.32080542737/14-15 DATED 24.3.2015.

EXT.P4: COPY OF THE MODIFIED ORDER NO.32080542737/14-15 DATED 24.3.2015.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.10546 OF 2015 (P)

Dated this the 31st day of March, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P4 order passed by the 1st respondent confirming penalty amounts, under the KVAT Act, on the petitioner. The sole ground of challenge against Ext.P4 order in the writ petition is that the said order was passed without issuing any notice to the petitioner and without hearing him. It is submitted, therefore, that Ext.P4 order is vitiated by a non-compliance with the principles of natural justice.

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

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that in Ext.P4 order, there is no reference to any notice having been issued to the petitioner, prior to the passing of the said order, or an opportunity of

hearing having been afforded to the petitioner prior to the passing of the said order. In that view of the matter, Ext.P4 order is vitiated on account of a non-compliance with the principles of natural justice. Accordingly, I quash Ext.P4 and 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 11.00 a.m. on 17.4.2015.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp