IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 10672 of 2015 (H)

PETITIONER :

M/S. LEO TOURISM AND LIFE SPACE DEVELOPERS PVT. LTD.,
41/2210, THE LEO GROUP, VEEKSHANM ROAD, ERNAKULAM,
KOCHI-18, REPRESENTED BY ITS DIRECTOR,
LEO SYLVESTER GEORGE.

BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON

RESPONDENT :

ASST. COMMISSIONER (WC & LT),
DEPARTMENT OF COMMERCIAL TAXES, CLASS TOWER,
2ND FLOOR, OLD RAILWAY STATION ROAD,
ERNAKULAM, KOCHI-18

BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.10672/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE REGISTRATION CERTIFICATE ISSUED RESPONDENT DATED 17/06/2013.

P2 COPY OF THE RELEVANT WEBPAGE OF THE DEPARTMENT

P3 COPY OF THE LETTER SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT DATED 03/02/2015.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

..

W.P.(C) No. 10672 of 2015 (H)

..

Dated this the 6th day of April, 2015

JUDGMENT

The challenge in the writ petition is against the cancellation of the KVAT registration of the petitioner without notice to the petitioner. Ext.P2 is a copy of the web page whereby the petitioner was informed that his registration under the Kerala Value Added Tax Act,2003, [for short, the 'KVAT Act'] had been cancelled.

2. In the writ petition, the specific case of the petitioner is that, prior to notifying Ext.P2, he was not afforded an opportunity of being heard or served with any notice proposing such a cancellation of registration.

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

4. The learned Government Pleader on instructions would submit that, as a matter of fact, a notice proposing a cancellation of registration had been issued to the petitioner at his e-mail ID on 02.08.2014. I note that the service of a notice by e-mail at the e-mail address given by the petitioner is one of the modes prescribed for service of notice under Section 88 of the KVAT Act. In the instant case, the notice is stated to have been served on the petitioner on 02.08.2014, and the cancellation itself is dated 04.08.2014 This would mean that, the petitioner did not have an effective opportunity to reply to the said notice and further,

was not afforded a personal hearing before taking a decision with regard to cancellation of his registration.

5. In my view, such drastic action, such as cancellation of the registration of a dealer under the KVAT Act, cannot be taken without hearing the dealer, who will be affected by the said action. In that view of the matter, I feel that the decision of the respondents in Ext.P2 cannot be legally sustained. Resultantly, I quash the decision in Ext.P2, to cancel the registration of the petitioner, and direct the 1st respondent to consider the matter afresh, after hearing the petitioner, within a period of one month from the date of receipt of a copy of this judgment. To enable the respondent to do so, I direct the petitioner to appear before the respondent at his office at 11 a.m. on 17.04.2015. The online facility, that was available to the petitioner under the KVAT Act, shall be reactivated forthwith, pursuant to this judgment, and shall be subject to the fresh decision to be taken by the respondents in pursuance to this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/07/04/