

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No. 11253 of 2015 (F)

PETITIONER(S):

**MATHEW CYRIAC, PROPRIETOR,
CHENNOTH GLASS & HARDWARES,
THALAYOLAPARAMBU, KOTTAYAM-686 605.**

BY ADV. SRI.MOHAMMED RAFIQ.

RESPONDENT(S):

- 1. THE INTELLIGENCE OFFICER,
SQUAD NO.V, COMMERCIAL TAXES,
KOTTAYAM-686 001.**
- 2. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE NOTICE NO.OR-ISK-V3289/14-15 DATED 23/02/2015
ISSUED BY THE 1ST RESPONDENT.
- EXT.P2 COPY OF THE LETTER DATED 05/03/2015 SENT BY THE
PETITIONER TO THE 1ST RESPONDENT THROUGH E MAIL.
- EXT.P3 COPY OF THE REPLY DATED 06/03/2015 SENT BY THE
PETITIONER TO THE 1ST RESPONDENT.
- EXT.P4 COPY OF THE SPEED POST RECEIPT NO.FL543264670IN
DATED 07/03/2015.
- EXT.P5 COPY OF THE ORDER NO.ISKVOR 3289/14-15 DATED 06/03/2015
PASSED BY THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.11253 of 2015

.....
Dated this the 7th day of April, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P5 order passed by the 1st respondent confirming a penalty on the petitioner. The challenge in the writ petition against Ext.P5 order, is that the said order was passed without hearing the petitioner. Counsel for the petitioner would submit that, although a notice proposing the imposition of penalty was served on the petitioner, he was not given ample time to respond to the said notice or to appear before the 1st respondent for the hearing. It is also pointed out that there was no need for the 1st respondent to pass orders in haste in the instant case.

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

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that Ext.P5 order was passed by the 1st respondent on 06.03.2015 barely 10 days after Ext.P1 notice proposing the imposition of penalty was sent to the petitioner. In my view, there was no necessity for the 1st respondent to act in such haste in the matter of confirming a demand of penalty on the petitioner. It is not stated in Ext.P5 as to

what prejudice would be caused if the petitioner was not afforded an opportunity of being heard. Accordingly, I quash Ext.P5 order and direct the 1st respondent to pass fresh orders in the matter, after hearing the petitioner, and after considering the reply filed by the petitioner. To enable the 1st respondent to do so, I direct the petitioner to appear before the 1st respondent at 11 am on 30.04.2015, for a hearing in connection with the proposal for imposition of penalty.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

