

**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. 11378 of 2015 (V)**  
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**PETITIONER(S):**  
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**M/S.BOSCH CHASSIS SYSTEMS INDIA LIMITED  
BULDING NO.2/178-A4, VILLANASSERY BUILDING  
ELOOR VILLAGE, ELOOR - 683 501  
ERNAKULAM DISTRICT, REPRESENTED BY  
MR.ANUP KUMAR, V. - AUTHORISED SIGNATORY**

**BY ADVS.SRI.JOSEPH JERARD SAMSON RODRIGUES  
SRI.ROVIN RODRIGUES**

**RESPONDENT(S):**  
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- 1. THE ASSISTANT COMMISSIONER,  
SPECIAL CIRCLE -II, DEPARTMENT OF COMMERCIAL TAXES  
ERNAKULAM - 682 015**
- 2. THE DEPUTY COMMISSIONER, DEPARTMENT OF COMMERCIAL TAXES  
ERNAKULAM - 682 015**

**R BY GOVERNMENT PLEADER, SMT. SOBHA ANNAMMA EAPPEN**

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

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE NOTICE NO.32070342385/2014-15 DATED 28.10.2014, ISSUED BY THE FIRST RESPONDENT.
- EXHIBIT P2 TRUE COPY OF THE REPLY LETTER DATED 20.11.2014 FILED BY THE PETITIONER TO THE FIRST RESPONDENT.
- EXHIBIT P2(a) TRUE COPY OF THE STATEMET OF STOCK INWARDS INCORRECTLY UPLOADED IN THE K VATIS FOR THE MONTH OF JULY 2014.
- EXHIBIT P2(b) TRUE COPY OF THE COMPARISON STATEMENT OF STOCK INWARD RATE WITH SALES RATE.
- EXHIBIT P3 TRUE COPY OF THE REPLY LETTER DATED 10.12.2014 FILED BY THE PETITIONER TO THE FIRST RESPONDENT.
- EXHIBIT P4 TRUE COPY OF THE REPRESENTATION LETTER DATED 26.12.2014, FILED BY THE PETITIONER TO THE SECOND RESPONDENT.
- EXHIBIT P5 TRUE COPY OF THE ORDER NO.32070342385/2014-15 DATED 12.01.2015, ISSUED BY THE FIRST RESPONDENT.
- EXHIBIT P6 TRUE COPY OF THE NOTICE OF DEMAND DATED 12.01.2015, ISSUED BY THE FIRST RESPONDENT.

RESPONDENT'S EXHIBITS:

NIL

// True copy //

PA to Judge

das

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C). No. 11378 of 2015**  
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**Dated this the 7<sup>th</sup> day of April, 2015**

**JUDGMENT**

The challenge in the writ petition is against Ext.P5 assessment order passed by the 1<sup>st</sup> respondent for the assessment year 2014-15. The contention of the petitioner in the writ petition is that Ext.P5 order was passed by the 1<sup>st</sup> respondent without adverting to material, that was produced by the petitioner before the 1<sup>st</sup> respondent. It is his contention that, on account of non-consideration of materials produced by the petitioner before him, Ext.P5 order is vitiated by a patent non-application of mind.

2. I have heard the learned counsel appearing on behalf of the petitioner as also the learned Government Pleader appearing on behalf of the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that in Ext.P5 order, the 1<sup>st</sup> respondent has referred to the pre-assessment notice issued to the petitioner, the reply filed by the petitioner, the material produced by the petitioner at the time of hearing and also the submissions of the learned counsel who appeared at the time of hearing on behalf of the petitioner. It is thereafter, that Ext.P5

order was passed. No doubt, counsel for the petitioner would submit that the said order has been passed without referring to the material that was produced by the petitioner before the 1<sup>st</sup> respondent. In my view, in the absence of any jurisdictional error that would vitiate Ext.P5 order, the petitioner has got an effective alternate remedy against Ext.P5 order by filing an appeal against the same before the appellate authority under the KVAT Act. Thus, without making any observation with regard to the legality of Ext.P5 order, I relegate the petitioner to the alternate remedy of filing an appeal against the said order before the appellate authority. The petitioner shall file the appeal and stay petition before the appellate authority within a period of two weeks from today. To enable the petitioner to do so, I stay the proceedings for recovery of the amount confirmed against the petitioner by Ext.P5 order, for a period of three weeks from the date of receipt of a copy of this judgment. I make it clear that on the expiry of the aforesaid period of three weeks the stay granted by this Court shall cease to operate.

Sd/-  
**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**