

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. 11462 of 2015 (G)

PETITIONER(S):

**M/S. NANI AGRO FOODS PVT LTD.,
DOING BUSINESS AT CC NO.8/1925, GUJARATI ROAD,
MATTANCHERY, KOCHI - 652 002. REPRESENTED BY ITS
MANAGER SRI.BHAVESH NAROTHAM DAS J. DEV.,
AGED 50 YEARS. S/O.NAROTHAM DAS J VED.**

**BY ADVS.SRI.R.O.MUHAMED SHEMEEM
SMT.NASEEHA BEEGUM P.S.
SRI.T.P.ABDUL HAMEED**

RESPONDENT(S):

**1. INTELLIGENCE OFFICER (INVESTIGATION BRANCH)
COMMERCIAL TAXES OFFICE OF THE INSPECTING ASSISTANT
COMMISSIONER (INTELLIGENCE), CIVIL STATION, KOTTAYAM
DISTRICT PIN: 686 002.**

**2.COMMERCIAL TAX OFFICDER,
1ST CIRCLE, TAX COMPLEX, MATTANCHERY KOCHI 652 002.**

**3.COMMISSIONER OF COMMERCIAL TAXES,
DEPARTMENT OF COMMERCIAL TAX, TAXES TOWER,
KILLIPPALAM KARAMANA (PO), THIRUVANANTHAPURAM DIST.
PIN 695 002.**

**4.STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT TAXES (D)
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM DIST.
PIN : 695 001.**

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:**

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE CERTIFICATE OF REGISTRATION, DATED 18.10.2010, IN FORM NO.4 ISSUED BY ASS. COMMISSIONER, SPECIAL CIRCLE (PRODUCE) COMMERCIAL TAXES OFFICE, MATTANCHERY.

EXT.P2: COPY OF THE ANNUAL RETURN PERTAINING TO ASSESSMENT YEAR 2013-14 SUBMITTED TO THE 2ND RESPONDENT DATED 4.6.2014.

EXT.P3: COPY OF REQUEST FOR PERMISSION TO REVISE THE SUBMITTED RETURNS DATED 10.09.2014 TO THE 2ND RESPONDENTS.

EXT.P4: COPY OF THE NOTICE IN FORM 17 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXT.P5: COPY OF THE NOTICE UNDER SECTION 67(1) OF THE KVAT ACT, DATED 05.12.2014 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXT.P6: COPY OF THE WRITTEN REPLY DATED 16.1.2015 SUBMITTED BEFORE THE 1ST RESPONDENT BY THE PETITIONER.

EXT.P7: COPY OF THE IMPUGNED ORDER DATED 4.2.2015 IMPOSING PENALTY OF RS.10,21,240/- BY THE 1ST RESPONDENT AGAINST THE PETITIONER.

EXT.P8: COPY OF THE DEMAND NOTICE DATED 4.2.2015 FOR R.10,21,240/- ISSUED BY THE 1ST RESPONDENT AGAINST THE PETITIONER.

EXT.P9: COPY OF THE JUDGMENT DATED 23.10.2014 IN W.P.(C)NO.26596 OF 2014.

EXT.P10: COPY OF THE REFUND APPLICATION DATED 20.5.2014 OF THE PETITIONER.

EXT.P11: COPY OF THE REQUEST LETTER DATED 5.2.2014 SUBMITTED BY THE PETITIONER TO THE ASS. COMMISSIONER COMMERCIAL TAXES SPECIAL CIRCLE (PRODUCES) MATTANCHERY.

EXT.P12: COPY OF THE INTERSTATE SALE INVOICE NO.74, DATED 6.2.2014 WITH CONCERNED DEPARTMENT DELIVERY NOTICE NO.0324108.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.11462 OF 2015 (G)

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.P7 order of the 1st respondent confirming a demand of penalty on the petitioner under the Kerala Value Added Tax Act, for the assessment year 2013-14. Although various contentions are raised in the writ petition against Ext.P7 order of the 1st respondent, I find that the petitioner has got an effective alternate remedy by way of filing a revision petition under the KVAT Act, for redressing his grievance against Ext.P7 order. I do not see any jurisdictional error, or a breach of the limitation provisions, occasioned in Ext.P7, so as to interfere with the said order in these proceedings under Article 226 of the Constitution of India. Thus, I relegate the petitioner to his alternate remedy of filing a revision against Ext.P7 order under the KVAT Act. The writ petition, in its challenge against Ext.P7 order, is accordingly dismissed.

Counsel for the petitioner would submit that, seeking a revision of the returns already filed by him for the assessment year 2013-14, he has preferred Ext.P3 application before the 2nd respondent. It is

his prayer that the 2nd respondent be directed to consider and pass orders on Ext.P3 representation preferred by him within a stipulated time frame. Taking note of the said submission of counsel for the petitioner, I direct the 2nd respondent to consider and pass orders on Ext.P3 representation preferred by the petitioner before him, within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner. The petitioner shall produce a copy of the writ petition together with a copy of this judgment before the 2nd respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp