IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 11493 of 2015 (J)

PETITIONER(S):

GUNBOW TRADING COMPANY,
AMCW.26/1467 K, II FLOOR, ABABEEL COMPLEX,
IRON BRIDGE POST OFFICE, C.C.S.B. ROAD,
ALAPPUZHA, PIN-688 011, REPRESENTED BY ITS
MANAGING PARTNER SRI.JAYAKRISHNAN SAMBASIVAN.

BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM),
SRI.K.S.HARIHARAN NAIR.

RESPONDENT(S):

THE AGRICULTURAL INCOME TAX &
COMMERCIAL TAX OFFICER, MINI CIVIL STATION,
ALAPPUZHA, PIN-688 011.

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 11493 of 2015 (J)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 COPY OF THE LETTER DATED 26/02/2015 OF THE PETITIONER ADDRESSED TO THE RESPONDENT.

EXT.P2 COPY OF THE NOTICE DATED 28/02/2015 ISSUED BY THE RESPONDENT.

EXT.P3 COPY OF THE REQUEST FOR ADJOURNMENT DATED 17/03/2015.

EXT.P4 COPY OF THE ORDER DATED 30/03/2015 ISSUED BY THE RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 11493 of 2015 (J)

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Dated this the 9th day of April, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P4 assessment order passed in relation to the petitioner for the assessment year 2013 - 2014. The main ground of challenge against Ext.P4 in the writ petition is that, the petitioner was not afforded an opportunity of hearing before the respondent prior to the passing of Ext.P4 order.

2. I have heard Sri.S.Anil Kumar, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondent.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I find that, in Ext.P4 order, although there is mention of a further extension of time by ten days having been allowed to the petitioner, for filing his objection to the proposal for completion of assessment, and for production of books of accounts, there is no reference to any written intimation having been given to the petitioner with respect to the grant of extension of time. In that view of the matter, the contention of the petitioner that he was not given any further time to produce the records has to be considered for

determining whether the petitioner was afforded an effective opportunity of putting forth his case before the respondent. I am of the view that, inasmuch as there was no urgency in passig Ext.P4 order, and there would be no prejudice caused to the department by considering the objections of the petitioner prior to passing the final order of assessment, Ext.P4 order ought to be qaushed. Resultantly, I quash Ext.P4 order, and direct the respondents to complete the assessment in relation to the petitioner for the assessment year 2013 - 2014 afresh, after affording the petitioner an opportunity of being heard, within a period of two months from the date of receipt of a copy of this judgment. Inorder too enable the respondent to do so, I direct the petitioner to appear before the respondent at his office on 11a.m. at 23.04.2015.

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/09/04/