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. 11973 of 2015 (V)

PETITIONER(S):

SMT.P.S OMANA AGED 58 YEARS, PROPRIETORIX
M/S. SREELAKSHMI SILKS & SARESS
MARKET ROAD, CHALAKUDY

BY ADVS.SMT.S.K.DEVI
SRI.SANTHOSH P.ABRAHAM

RESPONDENT(S):
----

1. THE ASST.COMMISSIONER(ASSMT)
DEPT. OF COMMERCIAL TAXES
SPL. CIRCLE, POOTHOLE, THRISSUR - 680 004

2. THE INSPECTING ASST.COMMISSIONER
DEPT. OF COMMERCIAL TAXES
MINI CIVIL STATION, IRINJALAKUDA 680 125

3. THE DEPUTY TAHSILDAR (REVENUE RECOVERY)
TALUK OFFICE, CHALAKUDY 680 307

R BY GOVERNMENT PLEADER, SMT. SOBHA ANNAMMA EAPPEN

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

WP(C).No. 11973 of 2015 (V)
--------------------------------------'

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	**TRUE COPY OF ASSESSMENT ORDER NO.32080295092/AUGUST 2014-15 DATED 16.10.2014.**
EXT.P2	**TRUE COPY OF THE REVISED RETURN FOR AUGUST 2014 DATED 10.11.2014.**
EXT.P3	**TRUE COPY OF THE E-CHALAN**
EXT.P4	**TRUE COPY OF THE DEMAND NOTICE NO.A2-2358/2014 DATED 11.12.2014 ISSUED BY THE 2ND RESPONDENT.**
EXT.P5	**TRUE COPY OF THE REQUEST DATED 19.12.2014 FILED BEFORE THE 1ST RESPONDENT.**
EXT.P6	**TRUE COPY OF THE REQUEST DATED 19.12.2014 FILED BEFORE THE 2ND RESPONDENT.**
EXT.P7	**TRUE COPY OF THE DEMAND NOTICES (U/S 7) NO.2015/3266/8/700 DATED 19.3.2015.**
EXT.P8	**TRUE COPY OF THE DEMAND NOTICES (U/S 34) NO.205/3266/8/700 DATED 19.03.2015.**

RESPONDENT'S EXHIBITS:-
-- **NIL**

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.
==
W.P.(C). No. 11973 of 2015
===
Dated this the 9th day of April, 2015

JUDGMENT

The challenge in the writ petition is against Exts.P7 and P8 notices, that have been issued to the petitioner for recovery of amounts towards turnover tax for the month of August 2014. It is the contention of the petitioner that, on receipt of the initial demand for tax for the month of August 2014, she has already remitted the amount, after filing a revised return with the respondents. It is her contention that, Exts.P7 and P8 notices have been issued at the instance of the 3rd respondent, without noticing the said fact. Counsel for the petitioner would submit that, highlighting these aspects, the petitioner has already preferred Ext.P5 representation before the 1st respondent, alhough it is stated that the 1st respondent did not receive the said representation. It is her contention that, if the 1st respondent is directed to consider and pass orders on Ext.P5, then the demand itself will not be sustained, and the action taken by the 3rd respondent in issuing Exts.P7 and P8 notices will be seen as legally untenable.

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

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar and, in particular, taking note of the submission of counsel for the petitioner that she had approached the 1st respondent with Ext.P5 representation, which the 1st respondent did not accept, I dispose the writ petition with the following directions:

(i) If the petitioner produces a copy of Ext.P5 representation before the 1st respondent within three weeks from today, then the 1st respondent shall consider and pass orders on the same within a period of three weeks thereafter, after hearing the petitioner.

(ii) Recovery steps for recovery of turnover tax amount for the month of August 2014, pursuant to Exts.P7 and P8 notices shall be kept in abeyance, till such time as the 1st respondent passes orders as directed and communicates the same to the petitioner.

(iii) The petitioner shall produce a copy of this judgment along with a copy of this writ petition before the 1st respondent.

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das