IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 15468 of 2015 (G)

PETITIONER:

M/S. IDEAL MILL STORES, V/496,
INDUSTRIAL JUNCTION, MANAKKAPAY,
MUPPATHADAM-683110,
REPRESENTED BY ITS PARTNER T.K.SUBAIR.

BY ADVS.SRI.P.N.DAMODARAN NAMBOODIRI
SMT.K.P.RANI

RESPONDENT(S):
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1. **THE COMMERCIAL TAX OFFICER II,**
   DEPARTMENT OF COMMERCIAL TAXES,
   N.PARAVUR-680513.

2. **THE INSPECTING ASST.COMMISSIONER,**
   COMMERCIAL TAXES DEPARTMENT,
   MATTANCHERRY-682002.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 15468 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1 : **TRUE COPY OF THE ANNUAL RETURN FOR THE YEAR 2013-14 DATED 29-05-2014 FILED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.**

EXT.P2 : **TRUE COPY OF THE AUDIT REPORT(FORM NO.13 & 13A) DATED 26-09-2014 SUBMITTED BY THE PETITIONER.**

EXT.P3 : **TRUE COPY OF THE ASSESSMENT ORDER NO.32150993916/2013-14 DATED 29-04-2015 FOR THE YEAR 2013-14 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.**

EXT.P4 : **TRUE COPY OF THE POSTAL COVER SENT BY THE 1ST RESPONDENT TO THE PETITIONER.**

EXT.P5 : **TRUE COPY OF THE JUDGMENT OF THE HON'BLE DIVISION BENCH IN WRIT APPEAL NO:1006/2012 DATED 20-07-2012,OF NEETHA SEBASTIAN V/S SALES TAX OFFICER AND ANOTHER.**

EXT.P6 : **TRUE COPY OF THE CIRCULAR NO:28/2012 DATED 29-10-2012 ISSUED BY THE COMMISSIONER OF COMMERCIAL TAXES, THIRUVANANTHAPURAM.**

EXT.P7 : **TRUE COPY OF THE CIRCULAR NO:C1-45370/09/CT DATED 16.11.2009 ISSUED BY THE COMMISSIONER OF COMMERCIAL TAXES, THIRUVANANTHAPURAM.**

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

A. MUHAMED MUSTAQUE, J.

W.P. (C). No. 15468 of 2015

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Dated this the 2nd day of June, 2015

<u>J U D G M E N T</u>

The petitioner challenges Ext.P3 assessment order on the ground that, the order was issued without giving substantial opportunity to raise objections.

2. In Ext.P3 order it is stated as follows:

> *The above notice had been sent to the dealer by registered post on 13.04.2015. But the Postal Authorities have returned the same to point out that 'noticed absent'.*

3. The petitioner's case is that, he was not aware of the assessment order. Considering the fact that no notice has been addressed to the petitioner and the petitioner is a registered dealer who otherwise submits accounts in regular interval, I am of the view that, an opportunity of hearing should be given to the petitioner.

4. Accordingly Ex.P3 is set aside. The petitioner shall appear before the 1st respondent on 23.06.2015. Thereupon the petitioner shall give an opportunity to raise objections. If the objection shall be raised within a further period of one

month, the entire exercise for assessment shall be completed within an outer limit of two months from 23.06.2015.

The writ petition is disposed of as above.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

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