

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

WP(C).No. 17008 of 2015 (A)

PETITIONER(S):

**M/S.T. LINE INFRA PRIVATE LIMITED,
HAVING ITS REGISTERED OFFICE AT THOMSUN ANNEX,
ACHUTHA WARRIER LANE, M.G. ROAD, KOCHI,
ERNAKULAM DISTRICT, REPRESENTED BY ITS
EXECUTIVE DIRECTOR MR.ANTONY THOMAS.**

**BY ADVS.SRI.JOMY GEORGE,
SRI.SEBASTIAN THOMAS,
SRI.DEEPAK MOHAN.**

RESPONDENT(S):

- 1. VALECHA ENGINEERING LIMITED,
99/1, ELLANGO NAGAR SOUTH, VIRUGAMBAKKAM,
CHENNAI-600 092, HAVING ITS BRANCH OFFICE AT
CHATHENKERY P.O., PATHANAMTHITTA.**
- 2. ASSESSING AUTHORITY WORKS CONTRACT,
COMMERCIAL TAX OFFICE, PATHANAMTHITTA- 689 645.**
- 3. INTELLIGENCE OFFICER, SQUAD NO.1,
COMMERCIAL TAXES, PATHANAMTHITTA- 689 645.**
- 4. ASSISTANT COMMISSIONER (WORKS CONTRACT),
SALES TAX COMPLEX, RAVIPURAM, ERNAKULAM -682 013.**
- 5. SECRETARY,
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM- 695 001.**
- 6. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM -695 001.**

R2 TO R6 BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONERS' EXHIBITS:

- EXT.P1 TRUE COPY OF THE WORK ORDER DATED 28/08/2013 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXT.P2 TRUE COPY OF THE LETTER SENT BY M/S.LULU CONVENTION AND EXHIBITION CENTER PRIVATE LIMITED TO THE 2ND RESPONDENT ALONG WITH FROM NO.20(C) AND THE CHEQUES.
- EXT.P3 TRUE COPY OF THE CERTIFICATE ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER IN FROM NO.20(F) FOR AN AMOUNT OF RS 2,46,71,618/-.
- EXT.P3(A) TRUE COPY OF THE CERTIFICATE ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER IN FROM NO.20(F) FOR AN AMOUNT OF RS 10,69,77,164/-.
- EXT.P3(B) TRUE COPY OF THE CERTIFICATE ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER IN FROM NO.20(F) FOR AN AMOUNT OF RS 1,16,92,263/-.
- EXT.P4 TRUE COPY OF THE LETTER SENT BY THE 1ST RESPONDENT TO THE PETITIONER EXPLAINING THE DETAILS OF THE PAYMENT OF THE TAX ON WORKS CONTRACT.
- EXT.P5 TRUE COPY OF THE QUARTERLY RETURN FILED BY THE PETITIONER FOR THE PERIOD ENDING 31.03.2014.
- EXT.P6 TRUE COPY OF THE NOTICE DATED 15/03/2015 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER WHICH WAS RECEIVED BY THE PETITIONER ON 21/05/2015.
- EXT.P7 TRUE COPY OF THE LETTER DATED 03/06/2015 SENT BY THE PETITIONER TO THE 3RD RESPONDENT.

RESPONDENTS' EXHIBITS:

NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.17008 of 2015

Dated this the 12th day of June, 2015

J U D G M E N T

The petitioner challenges Ext.P6 notice under Section 67(1)(b)(d)(e)(i) of the KVAT Act, 2003. The petitioner raised their objection by Ext.P7. The specific case of the petitioner is that the tax on work contract was deducted at source from the entire contract amount and paid to the department by the awarder by Ext.P2, P3 and P4.

2. This is essentially a question of verification of payment by the department. If such a payment has been effected, necessarily it should be borne out from the record. Therefore after adverting to Exts.P2, P3 and P4, proceedings based on Exts.P6 shall be concluded after hearing the petitioner.

3. The petitioner shall produce Exts.P2,P3,P4, and P7 before the 3rd respondent for compliance. Needful shall

be done within a period of two months from the date of receipt of a copy of this judgment

The writ petition is disposed of as above.

Sd/

**A.MUHAMED MUSTAQUE,
JUDGE**

jm/