

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

WP(C).No.17940 of 2015 (N)

PETITIONER:

**POLAKULATH TOURIST HOME,
JANATHA JUNCTION,VYTTILA,
ERNAKULAM-689 019,REPRESENTED BY
P.N.KRISHNADAS,AUTHORIZED SIGNATORY.**

**BY ADVS.SRI.K.N.SREEKUMARAN
SRI.P.D.UNNIKKANNAN NAIR**

RESPONDENT'S:

- 1. COMMERCIAL TAX OFFICER,
2ND CIRCLE,TRIPUNITHRUA-682 021.**
- 2. THE ASSISTANT COMMISSIONER,
COMMERCIAL TAXES SPECIAL CIRCLE-III,
ERNAKULAM AT THEVARA-682 011.**

BY SENIOR GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1. TRUE COPY OF THE CERTIFICATE DATED 4/4/2009 SHOWING THE DEATH OF SRI.P.K.NARAYANAN.
- EXT.P2. TRUE COPY OF THE CERTIFICATE OF REGISTRATION DATED 17/5/2007 ISSUED TO LATE P.K.NARAYANAN BY THE 1ST RESPONDENT.
- EXT.P3. TRUE COPY OF THE CERTIFICATE OF REGISTRATION DATED 30/6/2009 ISSUED TO THE PETITIONER BY THE 1ST RESPONDENT.
- EXT.P4. TRUE COPY OF THE PERMISSION IN FORM NO.22 DATED 31/7/2009 ISSUED TO THE PETITIONER BY THE 1ST RESPNDENT.
- EXT.P5. TRUE COPY OF THE ANNUAL RETURN FOR 2009-10 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P6. TRUE COPY OF THE NOTICE DATED 21/4/2014 ISSUED U/S.19 TO THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P7. TRUE COPY OF THE RELY TO EXT.P6 FILED BEFORE THE 2ND RESPONDENT WITH HIS ACKNOWLEDGEMENT ON 20/6/2014.
- EXT.P8. TRUE COPY OF THE ANNUAL RETURN FOR 2014-15 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P9. TRUE COPY OF THE ARREAR NOTIVE IN FORM NO.12A DATED 2/6/2015 ISSUED TO THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P10. TRUE COPY OF THE REQUEST DATED 5/6/2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P11. TRUE COPY OF THE ASSESSMENT ORDER BEARING NO.23232044 DATED 2/6/2014 FOR 2009-10 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

A. MUHAMED MUSTAQUE, J.

W.P.(C). No. 17940 of 2015

Dated this the 24th day of June, 2015

J U D G M E N T

The petitioner challenges Ext.P11 assessment order, passed on the premise that the petitioner has not filed any reply pursuant to notice under Section 19(1) of KGST Act.

2. Petitioner's case is that, the petitioner has now been assessed by the 2nd respondent and the petitioner has responded to the notice by filing a reply before the 2nd respondent. Ext.P7 is the reply filed by the petitioner. It is seen that, Ext.P7 was acknowledged at the office of the 2nd respondent. It is submitted that, based on the turn over the entire files have been dealt with the 2nd respondent.

3. Taking into the facts and circumstances, I am of the view that the petitioner should be given an opportunity in the matter to raise objections as authority proceeded, as though the petitioner has not responded to the notice.

4. Accordingly, Ext.P11 is set aside and the following directions are issued:

(i) If the 1st respondent finds that entire matter is being dealt

with the 2nd respondent, necessarily the entire files shall be transferred to the 2nd respondent.

(ii) The exercise for assessment shall be completed after notice to the petitioner and hearing the petitioner within a period of two months.

The writ petitioner is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

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