

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

WP(C).No. 18111 of 2015 (L)

PETITIONER :

**SRI.KOSHY THOMAS (PROPRIETOR) AGED 49 YEARS,
M/S. MERIYA ENTERPRISES, 32/1373, PIPE LINE NORTH END
PALARIVATTOM, COCHIN 682 025.**

BY ADV. SRI.K.J.VINCENT (MUNDAMVELI)

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT SECRETARIAT, TRIVANDRUM 695 001.**
- 2. THE INTELLIGENCE OFFICER - SQUAD NO.III
C.T.COMPLEX, ERNAKULAM, COCHIN 682 015.**

BY SENIOR GOVERNMENT PLEADER SMT. SHOBA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 18111 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: PENALTY NOTICE NO.ISE/III 30.2014-15 DATED 29.4.2015 OF THE INTELLIGENCE OFFICER, SQUAD NO.III, ERNAKULAM.**
- P2: REQUEST FOR ADJOURNMENT DATED 14.5.15 SUBMITTED BY PETITIONER.**
- P3: COPY OF LOCAL DELLIVERY BOOK DATED 14.5.15 BEARING ACKNOWLEDGEMENT OF THE INTELLIGENCE OFFICER.**
- P4: COPY OF THE PENALTY ORDER NO. ISE/III/30/2014-15 DATED 27.5.2015 OF THE INTELLIGENCE OFFICER , SQUAD III, ERNAKULAM**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.18111 of 2015

Dated this the 23rd day of June, 2015

J U D G M E N T

The petitioner impugns Ext.P1 order passed by the 2nd respondent under Section 67 (1) of the KVAT Act, 2003 on the ground that, the petitioner has been denied substantial opportunity in the proceedings to contest the matter.

2. The petitioner received Ext.P1 proposal dated 29.04.2015 and replied to the same with a request to furnish photocopies of the retained documents. The petitioner also requested for 30 days more time. However, it appears that, the petitioner's request has been turn down and proceedings have been culminated as per Ext.P4 order dated 27.05.2015.

3. Essentially in this matter the petitioner's request ought not have been turn down. The petitioner only sought for 30 days time to file a reply after obtaining photocopies of the retained documents. It is admitted that, the petitioner has now received the entire documents.

4. Considering the facts and circumstances, I am of the view that, substantial justice demand an opportunity to the petitioner to contest the matter. Accordingly, the impugned order is set aside. The petitioner shall appear before the authority with all documents on 08.07.2015. Thereafter, after hearing the petitioner the entire

proceedings shall be concluded within a further period of two months. In view of the above, recovery proceedings against the petitioner are set aside.

This writ petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV