IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

WP(C).No.18219 of 2015 (B)

PETITIONER:

R.K.MANI SANKAR,M/S.M.S.ASSOCIATES,
SIVDADHAM,PUTHUR,PALAKKAD DISTRICT.

BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON
SRI.MAHESH V.MENON

RESPONDENT'S:
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1. THE COMMERCIAL TAX OFFICER (WC & LT),
SALES TAX COMPLEX,PALAKKAD-678 001.

2. INSPECTING ASST.COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
PALAKKAD-678 001.

BY SENIOR GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No.18219 of 2015 (B)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:COPY OF AGREEMENT EXECUTED WITH AMARAVATHI,PALAKKAD DATED 16.12.2008.

EXT.P1(a):COPY OF AGREEMENT EXECUTED WITH AMARAVATHI,PALAKKAD DATED 01-06-2009.

EXT.P2:COPY 0F NOTICE ISSUED BY THE IST RESPONDENT DATED 31.01.2015.

EXT.P2(a):COPY OF NOTICE ISSUED BY THE IST RESPONDENT DATED 31.01.2015.

EXT.P3:COPY OF REPLY FILED BEFORE THE 1ST RESPONDENT DATED 24.02.2015.

EXT.P4:COPY OF LETTER FILED BEFORE THE 1ST RESPONDENT DATED 17.3.2015.

EXT.P5:COPY OF ASSESSMENT ORDER PASSED BY THE FIRST RESPONDENT DATED 27.02.2015.

EXT.P5(a):COPY OF ASSESSMENT ORDER PASSED BY THE FIRST RESPONDENT DATED 27.02.2015.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C) No.18219 of 2015

Dated this the 29th day of June, 2015

J U D G M E N T

The petitioner is a contractor and assessee under the KVAT Act. The petitioner was entrusted certain work by M/s.Amaravathy Builders and Developers. Exts.P2 and P2(a) are the notices issued for the year 2009-10 and 2010-11. It is seen from the notices that, the petitioner has suppressed certain turnover mentioned in the notices. This has been found on verification of the books of accounts of M/s.Amaravathy Builders and Developers.

2. The petitioner objected to the proposal and submitted that, without giving the details of the books of accounts of M/s.Amaravathy Builders and Developers, the assessment cannot be completed.

3. This was repelled in the assessment stating that, the petitioner has not produced any proof against notices. Therefore, the assessment was made based on the best judgment.

4. The learned Government Pleader submits that, the books of accounts related to M/s.Amaravathy Builders and Developers cannot be made available to the petitioner and therefore, the petitioner cannot assail the orders. However, it is submitted that, the details of Bank accounts of M/s.Amaravathy Builders and Developers which were relied by the authority can be provided to the petitioner.

5. Essentially, the dispute in this writ petition is with regard to

the compliance of principles of natural justice. Admittedly, the petitioner was neither provided with books of accounts nor with Bank accounts. If the Bank accounts were allowed to rely, necessarily, the assessing authority also shall provide details to the petitioner to contradict or to raise objections to those entires. It is not seen from the records that, the petitioner has been provided with any details. In that view of the matter, the orders are liable to be set aside, as the same is substantially relied on the dealings with M/s.Amaravathy Builders and Developers.

In view of the above, this writ petition is disposed of with the following directions :

1. Exts.P5 and P5(a) orders are set aside.
2. The petitioner shall appear before the 1st respondent on 14.07.2015. On that date, the petitioner shall be provided with all the materials relied by the 1st respondent.
3. The petitioner shall be given further opportunity to discredit any of the entries for substantiating those entries not less than three weeks.
4. The entire exercise shall be completed within a further period of one month thereafter.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

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