IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

WP(C).No. 18687 of 2015 (I)

PETITIONER:

SALICO TRADING CO. PVT. LTD.,
610, SECTOR 18B, CHANDIGARH,
REPRESENTED BY ITS AUTHORIZED SIGNATORY
SRI.ANIL KUMAR DATTA.

BY ADVS.SRI.RAJESH NAMBIAR
SRI.N.R.SAJ
SMT.SINDHU K.NAMBIAR

RESPONDENT(S):

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1. STATE OF KERALA,
   REPRESENTED BY SECRETARY TO GOVERNMENT,
   DEPARTMENT OF COMMERCIAL TAXES,
   THIRUVANANTHAPURAM, PIN - 695 001.

2. COMMERCIAL TAX OFFICER,
   1ST CIRCLE, ERNAKULAM, PIN - 682 018.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 18687 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1. **TRUE COPY OF THE ASSESSMENT ORDERS DATED 05.11.2014 FOR THE YEARS 2011-12.**

EXHIBIT P2. **TRUE COPY OF THE ASSESSMENT ORDERS DATED 05.11.2014 FOR THE YEARS 2012-13.**

EXHIBIT P3. **TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P.(C)9745/2015 DATED 26.03.2015.**

EXHIBIT P4. **TRUE COPY OF THE FRESH ASSESSMENT ORDER DATED 30.05.2015 FOR THE ASSESSMENT YEAR 2011-12.**

EXHIBIT P5. **TRUE COPY OF THE FRESH ASSESSMENT ORDER DATED 30.05.2015 FOR THE ASSESSMENT YEAR 2012-13.**

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.18687 of 2015

Dated this the 26th day of June, 2015

J U D G M E N T

The petitioner approached this Court on two occasions aggrieved by the assessment orders for the year 2011-12 and 2012-13. In earlier round, this Court quashed orders to give an opportunity to the petitioner, as it was noted that, the order does not refer any opportunity of hearing having been extended to the petitioner. The present grievance is almost similar.

2. The petitioner's grievance is that, though they have given opportunity, they could not convince the authority as to the uploading of unaccounted sales in the new TIN. As the matter stands, the petitioner appeared on 08.04.2015 and the matter was adjourned to 13.05.2015. On that date, the petitioner did not appear. Thereafter, the petitioner made a request on 26.05.2015 along with a letter from BPCL dated 26.05.2015. That letter is in fact pertains to only the year 2013.

3. In the impugned order it is noted that, in respect of the unaccounted sales, the dealer claim that invoices have been uploaded, found incorrect. The authority appears to have verified all as well as new TIN and found that, it is not accounted in both the TINs. The petitioner's case is that, the entire sales have been accounted in new TIN. The petitioner prays that, if an opportunity is

given to them, they will be able to clarify before the assessing authority. Therefore, the only question now remains is that, whether any opportunity should be given to the petitioner to clarify the position that, whether sales have been accounted in new TIN or not.

4. The learned Government Pleader opposes the prayer of the petitioner and submits that, the petitioner is dragging the matter for one or other reasons. The petitioner was given sufficient opportunity all along in the proceedings.

5. As rightly pointed out by the learned Government Pleader, I am of the view that, the petitioner was given sufficient opportunity in the matter by the assessing authority. There was no deprivation of any opportunity to the petitioner. However, the question now revolves around verification of uploading the sales in the new TIN.

6. Considering the facts and circumstances, I am of the view that, an opportunity should be given to the petitioner. However, that should be only based on certain conditions as proceedings have been delayed and much labour have spent on it. Therefore, the petitioner shall remit an amount ₹20,000/- (Rupees Twenty thousand only) as cost in the account maintained by the Government under the head Other Receipts (Account No.0040-00-1119109) within ten days. The petitioner shall also appear before the authority on 13.07.2015 with all details and also along with the

receipt for above payment. Thereafter, necessary orders shall be passed within a further period of two weeks.

This writ petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV