IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

WP(C).No. 20345 of 2015 (P)

PETITIONER(S):

POPULAR MEGA MOTORS (INDIA) LTD.,
KUTTUKARAN CENTRE, MAMANGALAM,
EDAPPALLY, KOCHI- 682 025,
REPRESENTED BY ITS AUTHORISED SIGNATORY
SRI.JAYARAJ K.R.

BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM),
SRI.K.S.HARIHARAN NAIR.

RESPONDENT(S):

THE ASST. COMMISSIONER (VAT),
COMMERCIAL TAXES, SPECIAL CIRCLE-I,
ERNAKULAM-682 015.

BY SR. GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 20345 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS:-

P1 - COPY OF NOTICE DATED 02-07-2014 ISSUED BY THE RESPONDENT.

P2 - COPY OF REPLY DATED 15.12.2014.

P2(A) - COPY OF REPLY DATED 25.04.2015.

P3 - COPY OF ORDER DATED 29.04.2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.20345 of 2015

Dated this the 10th day of July, 2015

JUDGMENT

The petitioner has been served with a proposal for assessment under Section 25(1) of the Kerala Value Added Tax Act, 2003. The proposal was for a taxable turnover of ₹15,12,61,670/-. The assessment now made as per Ext.P3 is for a taxable turnover of ₹ 19,56,50,633/-.

2. The petitioner's case is that, Ext.P3 is in violation of the principles of natural justice as the petitioner has not given an opportunity by way of proposal for assessing the turnover at ₹19,56,50,633/-.

3. In fact as prelude for assessment, the authority had to comply with the principles of natural justice, with the nature of proposal for assessment in terms of Section 25(1) of the KVAT Act. In the said circumstances, all the details relied by the authority based on the proposal has to be furnished to the assessee. The disparity in the proposal and assessment clearly indicates that, the petitioner was not put to notice.

4. In that view of the matter, the impugned order is set aside. There shall be a direction to the respondent to issue a fresh proposal and complete the assessment in accordance with law.

This writ petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV