

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

WP(C).No. 23208 of 2015 (A)

PETITIONER(S):

**AL-MAN HAL ENTERPRISES,
KALLANTHODE, PULLOOR PO, KASARGOD - 671 531,
REPRESENTED BY ITS PROPRIETRIX SMT.AYSHA HAJUMMA.**

BY ADV. SRI.K.S.HARIHARAN NAIR

RESPONDENT(S):

**THE INTELLIGENCE OFFICER,
SQUAD NO.IV, DEPARTMENT OF COMMERCIAL TAXES,
KASARGOD - 671 121.**

BY SENIOR GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 23208 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

P1- COPY OF SHOP INSPECTION REPORT DATED 11.10.2012.

P2- COPY OF THE NOTICE DATED 30.4.2014.

P3- COPY OF THE REPLY DATED 16.8.2014 SUBMITTED BY THE PETITIONER.

P4- COPY OF THE REPLY DATED 14.7.15 SUBMITTED BY THE PETITIONER.

P5- COPY OF THE ORDER DATED 30.4.2015 ISSUED BY THE RESPONDENT.

**P6- COPY OF THE JUDGMENT IN THE CASE OF GOVERNMENT WOOD WORK SHOP
VS. STATE OF KERALA AS 1987 (1) KLT 804.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msv/

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.23208 of 2015

Dated this the 10th day of August, 2015

JUDGMENT

The petitioner is a company represented by its proprietrix. The petitioner has approached this Court challenging penalty proceedings.

2. The main ground of challenge is that the petitioner was not given sufficient opportunity in the process to substantiate her contention. It is particularly points out that the petitioner has made a request for adjourning the hearing due to the wedding of her daughter. It is submitted that it was declined without any reason.

3. It is to be noted that the notices were issued on 22.7.2013 and 30.4.2014 and the petitioner gave reply on 16.8.2014. The petitioner appears to have produced books of accounts. The reason appears to have been sought for adjournment to substantiate the books of accounts based on the reply.

4. The Authority, after adverting to the books of accounts, had come to an conclusion and issued the impugned order whether the verification was proper or not, cannot be decided in the writ jurisdiction. A question of denial of an opportunity also does not arise in this case as the petitioner was given an opportunity to give reply and to produce of books of accounts. There is no vitiating element in the process. Though, there may be a reason to assail the finding of conclusion but that cannot be a matter to be decided in the writ jurisdiction, especially, when the petitioner has alternate remedy by way of revision. Therefore, with liberty to challenge the impugned order in the revision, the writ petition is dismissed.

4 . Lastly, the petitioner prays before this Court that she may be permitted to file a revision and recovery may be deferred on payment of portion of the amount covered by the demand.

Considering the facts and circumstances, this Court is of the view that if the petitioner files revision within two weeks from the date of receipt of a copy of this judgment, recovery proceedings shall be deferred till the disposal of the revision on the following terms and conditions:

- i. The petitioner shall remit Rs.1 lakh on or before 01.09.2015, another sum of Rs.1 lakh on or before 01.10.2015 and followed by one more lakhs by 01.11.2015.
- ii. In the event of default, the respondents are free to proceed against the petitioner in accordance with law.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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