IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

WP(C).No. 23300 of 2015 (J)
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PETITIONER(S):

G.SREEKUMAR,
PROPRIETOR, ATHULYA TEXTILES,
SEETHATHODU, PATHANMTHITTA.

BY ADVS.SMT.INDU SUSAN JACOB
SRI.V.K.SHAMUSUDHEEN

RESPONDENT(S):
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1. THE COMMERCIAL TAX OFFICER,
RANNI, PATHANAMTHITTA-689662.

2. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, PATHANAMTHITTA-689645.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 23300 of 2015 (J)
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EXHIBIT-P1- **TRUE COPY OF THE NOTICE IN FORM NO.18A ISSUED BY THE R1 DATED 4/7/14**

EXHIBIT-P2- **TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2014-15 ISSUED BY R1 DATED 10-12-14**

EXHIBIT-P3- **TRUE COPY OF THE DEMAND NOTICE ISSUED BY R2 DEMANDING THE AMOUNT DUE UNDER EXT.P2 ORDER.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.MUHAMED MUSTAQUE, J.

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W.P.(C) No.23300 of 2015

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Dated this the 11th day of August, 2015

JUDGMENT

The petitioner, challenging Ext.P2 order under Section 24(1) of the Kerala Value Added Tax Act, has approached this Court. The main ground of challenge is that the petitioner was not given an opportunity of personal hearing.

2. It is also stated that Ext.P2 assessment order is passed without given an opportunity of personal hearing. It is to be noted that this order was passed on 10.12.2014. The petitioner was served with notice on 4.7.2014. It appears that the petitioner has given a reply and not being satisfied with the reply, the assessment has been completed.

3. Apparently, in this proceedings, personal hearing was not afforded to the petitioner. However, the petitioner has chosen to challenge the order only when the recovery proceedings are initiated. Such practice cannot be countenanced. Therefore, while affording opportunity to the petitioner, this Court cannot ignore the

latches on the part of the petitioner. Therefore, the impugned order is set aside on the following terms and conditions:

i. The petitioner shall remit Rs.10,000/- being cost in the Government Account No.0040-00-1119109 within ten days from the date of receipt of a copy of this judgment.

ii. The petitioner shall appear before the Authority on 14.9.2015 at 11 a.m. along with receipt.

iii. Thereafter, the assessment shall be completed after hearing the petitioner within two months.

The writ petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE

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