

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C).No. 23625 of 2014 (C)

PETITIONER :

**M/S.HERITAGE INFRASPACE (INDIA) PRIVATE LTD,
IV/179C, SOUHRIDA NAGAR, KALAMASSERY P.O.,
COCHIN - 683 104,
REPRESENTED BY ITS ADMINISTRATION MANAGER AT KOCHI,
SRI.SUSHEEL KUMAR SINGH.**

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001**
- 2. COMMERCIAL TAX OFFICER (WORKS CONTRACT),
COMMERCIAL TAXES, CLAS TOWER, ERNAKULAM,
COCHIN - 682 018.**
- 3. COMMISSIONER OF COMMERCIAL TAXES,
TAX TOWER, KARAMANA P.O, THIRUVANANTHAPURAM-695 002**
- 4. M/S.LARSEN & TOUBRO LIMITED.,
MOUNT POONAMALLEE ROAD, MANAPAKKAM,
CHENNAI, REPRESENTED BY ITS KOCHIN METRO
RAIL SITE ENGINEER, KALAMASSERY,
COCHIN-683 104.**

R1 TO R3 BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - COPY OF CERTIFICATE OF INCORPORATION ISSUED TO THE PETITIONER COMPANY BY THE ASSISTANT REGISTRAR OF COMPANIES UNDER THE COMPANIED ACT, 1956
- EXT.P2 - COPY OF FORM ST-2 DATED 30-06-2011 ISSUED BY CENTRAL BOARD OF EXCISE AND CUSTOMS FOR THE SERVICE TAX REGISTRATION ALLOTTED TO THE PETITIONER COMPANY.
- EXT.P3 - COPY OF LABOUR CONTRACT DATED 11-09-2013 FOR THE KOCHI METRO RAIL PROJECT, ISSUED TO THE PETITIONER BY THE 4TH RESPONDENT
- EXT.P4 - COPY OF REGISTRATION UNDER THE KVAT AND CST ACTS OBTAINED FROM 2ND RESPONDENT AFTER PRODUCING COPY OF EXT.P3 LABOUR CONTRACT
- EXT.P5 - COPY OF ANNUAL E-RETURN IN FORM NO.10B FOR THE YEAR 2013-14 SUBMITTED BY THE PETITIONER CONCEDED ENTIRE AMOUNT RECEIPT FROM THE 4TH RESPONDENT WITH PROOF OF PAYMENT OF OUTPUT TAX DUE ON THE SALE OF CHEMICALS WHICH IS ONLY INCIDENTAL TO THE JOB WORK, TAXABLE AT SCHEDULE RATE.
- EXT.P6 - COPY OF ORDER DATED 11-07-2014 U/S.25(1) OF THE KVAT ACT COMPLETED BY THE 2ND RESPONDENT WITHOUT VERIFYING AND ISSUING PROPER NOTICE TO THE PETITIONER
- EXT.P7 - COPY OF SCREEN SHOT FOR THE E-MAIL RECEIVED FOR THE PERIOD 24-06-2014 TO 26-06-2014 OF THE PETITIONER COMPANY TO SHOW THAT NO E-MAIL RECEIVED FROM 2ND RESPONDENT AS STATED IN EXT.P6

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 23625 of 2014

Dated this the 30th day of July, 2015

J U D G M E N T

The petitioner has approached this Court challenging Ext.P6 assessment order. Petitioner's case is that, he was never given opportunity in this matter. The proceedings are initiated under Section 25(1) of KVAT Act.

2. It is admitted by the learned Government Pleader that notice sent to the petitioner was returned unknown and thereafter notice was sent through e-mail communication. In the absence of any representation on behalf of the petitioner, the matter was concluded based on the submission.

3. This Court is of the view that interest of justice demands an opportunity to the petitioner. Accordingly, the impugned order is set aside. The petitioner shall appear before the 2nd respondent on 17.08.2015 at 11.a.m. On that day, the petitioner shall be served with a copy of the proposal and thereafter after giving opportunity to the petitioner to raise objections, the matter shall be concluded within a further period of two months thereon.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.