

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No. 23746 of 2014 (P)

PETITIONER:

**M/S. KAMAKSHI CONSTRUCTIONS,
PAZHAYANADAKKAVU, THRISSUR,
REPRESENTED BY ITS MANAGING PARTNER,
R.PARAMESWARAN.**

BY ADV. SRI.N.MURALEEDHARAN NAIR

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER (WORKS CONTRACT),
DEPARTMENT OF COMMERCIAL TAXES,
THRISSUR-680 004.**
- 2. THE INTELLIGENCE OFFICER (INVESTIGATION BRANCH),
COMMERCIAL TAXES, THRISSUR-680 004.**
- 3. THE DEPUTY COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,
THRISSUR-680 004.**

BY GOVT. PLEADER SRI.BOBBOY JOHN PULIKKAMPARAMBIL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P-1: TRUE COPY OF THE IST APPELLATE ORDER DATED 24.6.2008.
- EXT.P-2: TRUE COPY OF THE PENALTY ORDER FOR THE YEAR 2007-08
DATED 23.5.2011.
- EXT.P-3: TRUE COPY OF THE POSTING NOTICE DATED 26.8.2014.
- EXT.P-4: TRUE COPY OF THE ASSESSMENT ORDER PASSED BY
IST RESPONDENT FOR THE YEAR 2007-08 DATED 3.7.2011.
- EXT.P-5: TRUE COPY OF THE APPELLATE ORDER DATED 31.1.2012.
- EXT.P-6: TRUE COPY OF THE NOTICE UNDER SECTION 25(1) OF THE KVAT ACT
DATED 12.8.2014.
- EXT.P-7: TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER BEFORE
THE IST RESPONDENT DATED 2.8.2014.
- EXT.P-8: TRUE COPY OF THE LIABILITY CERTIFICATE IN FORM NO.20B
DATED 5.5.2008.
- EXT.P-9: TRUE COPY OF THE CERTIFICATE IN FORM NO.20H.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.23746 OF 2014 (P)

Dated this the 7th day of January, 2015

J U D G M E N T

The writ petition is filed challenging Ext.P6 notice issued by the 1st respondent under Section 25 (1) of the Kerala Value Added Tax Act, hereinafter referred to as the 'KVAT Act', for the year 2007-08. Although the petitioner submits that he has preferred Ext.P7 reply to the said notice served on him, the apprehension of the petitioner in the writ petition is with regard to the non-consideration by the 1st respondent of his contention that a substantial portion of the demand proposed in Ext.P6 notice is barred by limitation.

2. I have heard Sri.V.K. Shamsudheen, the learned counsel appearing on behalf of the petitioner as also Sri.Bobby John Pulikkamparambil, the learned counsel appearing on behalf of the respondents.

On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find that the challenge in

the writ petition is basically against Ext.P6 notice issued by the 1st respondent. No doubt, the petitioner has a contention that a substantial portion of the demand proposed in Ext.P6 notice is hit by the provisions of limitation under the KVAT Act. It is his apprehension, that the said contention may not be considered by the 1st respondent in adjudication proceedings, that has caused him to approach this Court through the present proceedings without pursuing the course of filing a formal reply to Ext.P6 notice and getting the same adjudicated before the 1st respondent. I am of the view that the ends of justice would be met if the petitioner is provided with an opportunity to file a detailed objection, over and in addition to Ext.P7 reply already filed by him to Ext.P6 notice, stating the grounds of challenge against Ext.P6 notice, and an opportunity to defend his case before the 1st respondent at the time of adjudication of the matter before the said respondent. Accordingly, I dispose the writ petition with a direction to the 1st respondent to consider and pass orders pursuant to Ext.P6 notice, only after considering the reply and detailed objections put forward by the petitioner before him, and after affording the petitioner an opportunity of hearing in the matter. The

1st respondent shall pass orders within a period of three months from the date of receipt of a copy of this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp