IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

WP(C).No. 25983 of 2015 (W)

PETITIONER :

SHIYAD MON S., AGED 34 YEARS,
S/O.SIDDIKKUTTY, PROPRIETOR, M/S.EVERGREEN TRADERS,
D NO.NP 27/408, ERAMATHOOR P.O., MANNAR,
ALAPUZHA DISTRICT, PIN-689 622.

BY ADV. SRI.R.O.MUHAMED SHEMEEM

RESPONDENT(S):
----

1. THE COMMERCIAL TAX OFFICER,
   OFFICE OF THE COMMERCIAL TAX OFFICER,
   CHENGANNUR P.O., ALAPPUZHA DISTRICT, PIN-689 121.

2. THE INSPECTING ASSISTANT COMMISSIONER,
   DEPARTMENT OF COMMERCIAL TAX, CHENGANNUR P.O.,
   ALAPPUZHA DISTRICT, PIN-689 121.

3. THE DEPUTY COMMISSIONER,
   DEPARTMENT OF COMMERCIAL TAX, KALLUPALAM,
   IRUMBUPALAM P.O., ALAPPUZHA DISTRICT, PIN-689 121.

BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 25983 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : **TRUE COPY OF THE CERTIFICATE OF REGISTRATION, DT. 15-11-2011 HAVING TIN NO.32041181114 ISSUED BY THE 1ST RESPONDENT.**

P2 : **TRUE COPY OF THE ANNUAL RETURN FOR 2012-2013 SUBMITTED BEFORE THE 1ST RESPONDENT**

P3 : **TRUE COPY OF THE AUDIT CERTIFICATE IN FORM 13 UNDER SECTION 42 OF THE KVAT ACT SUBMITTED BEFORE THE 1ST RESPONDENT.**

P4 : **TRUE COPY OF THE NOTICE UNDER SECTION 25(1) DT. 22-6-2015 ISSUED BY THE 1ST RESPONDENT**

P5 : **TRUE COPY OF THE APPLICATION/LETTER DT. 4-7-2015 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT**

P6 : **TRUE COPY OF THE IMPUGNED ASSESSMENT ORDER DT. 23-7-2015 ISSUED BY THE 1ST RESPONDENT**

P7 : **TRUE COPY OF THE DEMAND NOTICE DT. 23-7-2015 ISSUED BY THE 1ST RESPONDENT**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.S.TO JUDGE

sts

A.MUHAMED MUSTAQUE, J.

~~~~~~~~~~~~~~~~~~~~~~~~~

W.P.(C).No.25983/2015

~~~~~~~~~~~~~~~~~~~~~~~~~

Dated this the 21st Day of August, 2015

J U D G M E N T

The petitioner, challenging Ext.P6 assessment order has approached this Court.

2. It is seen from the impugned order that the petitioner appeared and sought for 15 days time. It is apparent that the Assessing Authority has granted time. However, the petitioner neither filed any reply nor chosen to appear in person. Accordingly, based on best judgment, the assessment was concluded.

3. The petitioner submits that no notice was issued thereafter. Therefore, it violates natural justice.

4. I do not find any justification in the matter as the petitioner had appeared and sought time and that was granted. However, this Court is of the view that since it is based on best judgment, the petitioner should be given an opportunity in the matter. Accordingly, the matter shall be reconsidered. In view of the laches on the part of the petitioner in giving reply, the petitioner shall remit a cost of Rs.10,000/- (Rupees ten thousand

only) within two weeks in Government Account No.0040-00-1119109. The petitioner shall appear before the Authority on 22/09/2015 at 11 a.m. and raise objection and thereafter, after affording an opportunity of being personally heard to the petitioner, the assessment shall be completed within a further period of one month.

The writ petition is disposed of as above. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

ms