

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 31ST DAY OF AUGUST 2015/9TH BHADRA, 1937

WP(C).No. 26146 of 2015 (P)

PETITIONER(S):

**SOWPARNIKA PROJECT AND INFRASTRUCTURES PVT. LTD.,
T.C.NO.V-2342-A-26, 1ST FLOOR, GOLF LINKS ROAD,
KOWDIAR GARDENS, THIRUVANANTHAPURAM, REPRESENTED
BY ITS GENERAL MANAGER (OPERATIONS) AJITH PRASAD.**

**BY ADVS.SRI.S.ANIL KUMAR (TRIVANDRUM)
SRI.K.S.HARIHARAN NAIR
SRI.K.UMAMAHESWAR**

RESPONDENT(S):

**1.THE INTELLIGENCE OFFICER,
SQUAD NO.1, COMMERCIAL TAXES, PUBLIC OFFICE BUILDING,
THIRUVANANTHAPURAM 695 033.**

**2.THE ASSISTANT COMMISSIONER (WORKS CONTRACT),
2ND FLOOR, TAX TOWERS, KARAMANA,
THIRUVANANTHAPURAM 695 002.**

**3.THE DEPUTY COMMISSIONER, COMMERCIAL TAXES,
TAX TOWERS, KARAMANA, THIRUVANANTHAPURAM 695 002.**

R BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C).NO.26146/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF ORDER 29.09.2014 ISSUED BY THE 1ST RESPONDENT.

EXT.P2: COPY OF REVISION PETITION AGAINST EXT.P1.

EXT.P3: COPY OF NOTICE DATED 11.8.2015 ISSUED BY THE 2ND RESPONDENT.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.26146 OF 2015 (P)

Dated this the 31st day of August, 2015

J U D G M E N T

The petitioner is a works contractor, and a dealer registered both under the Kerala Value Added Tax Act and the Central Sales Tax Act. Aggrieved by an order of penalty imposed on him for the assessment year 2013-14, the petitioner preferred Ext.P2 revision petition before the 3rd respondent, and the said revision petition is pending consideration before the 3rd respondent. In the writ petition, the petitioner is aggrieved by Ext.P3 notice that is issued under Section 25(1) of the KVAT Act, proposing an assessment for the assessment year 2013-14, by adopting the turnover which has been reckoned in the penalty proceedings, which is the subject matter of the revision petition that is pending before the 3rd respondent. It is the apprehension of the petitioner that, if the proceedings pursuant to Ext.P3 notice are allowed to continue, pending disposal of the revision petition by the 3rd respondent, the petitioner will be prejudiced in that the 2nd respondent would adopt the turnover that has been reckoned by the authority in Ext.P1 order as the basis of assessment for the

assessment year in question. It is under these circumstances that the petitioner has approached this Court through the present writ petition seeking a direction to the 3rd respondent to consider and pass orders on the revision petition, expeditiously, and for a direction to the 2nd respondent to complete the proceedings pursuant to Ext.P3 notice only after orders are passed by the 3rd respondent in the revision petition that is pending before him.

2. I have heard the learned counsel for the petitioner as also the learned Government Pleader for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar and also taking note of the fact that Ext.P2 revision is pending consideration before the 3rd respondent since October, 2014, I dispose the writ petition with the following directions:

- (i) The 3rd respondent shall consider and pass orders on Ext.P2 revision petition preferred by the petitioner, within a period of three months from the date of receipt of a copy of this judgment, after hearing the petitioner.

(ii) The 2nd respondent shall take further steps, pursuant to Ext.P3 notice, only after the aforementioned period of three months that is afforded to the 3rd respondent for passing orders in the revision petition. This is with a view to ensuring that the 2nd respondent will have the benefit of the order to be passed by the 3rd respondent in the revision petition while considering the objections of the petitioner against Ext.P3 notice.

(iii) The 3rd respondent shall pass orders, as directed above, within the time stipulated, after affording the petitioner an opportunity of being heard. The petitioner shall produce a copy of the writ petition along with a copy of this judgment before the 2nd and 3rd respondents, for further action.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp