IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

WP(C).No. 26781 of 2015 (W)
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PETITIONER(S):

SUNRISE INSTITUTE OF MEDICAL SCIENCE (P) LTD.,
SEA PORT AIRPORT ROAD, MAVELIPURAM, KAKKANAD,
KOCHI 682030, REPRESENTED BY ITS MANAGING DIRECTOR,
MR.PRAVEEN HAFEEZ.

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

RESPONDENT(S):

COMMERCIAL TAX OFFICER,
2ND CIRCLE, KALAMASSERY AT CIVIL STATION,
KAKKANAD, KOCHI 682030.

BY GOVERNMENT PLEADER SRI.LIJU V.STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 26781 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: COPY OF NOTICE DATED 9.6.15 ISSUED BY THE RESPONDENT FOR THE YEAR 2013-14

P2: COPY OF REPLY DATED 17/7/15

P3: COPY OF ORDER 11/8/15 ISSUED BY THE RESPONDENT

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.26781 OF 2015

Dated this the 5th day of October, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P3 assessment order passed by the respondent under the Kerala Value Added Tax Act in relation to the petitioner for the assessment year 2013-2014. The sole ground for challenge against Ext.P3 in the writ petition is that, the said order was passed without hearing the petitioner. It is a case of the petitioner that in response to the notice proposing an assessment, the petitioner had preferred Ext.P2 reply and specifically requested for an opportunity of being heard in the matter. Apparently, the respondent did not grant the petitioner an opportunity of being heard and proceeded to confirm the proposals on the basis of the notice issued to the petitioner and after mechanically reproducing the reply submitted by the petitioner to the pre-assessment notice.

2. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondent.

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that in Ext.P3 order there is no reference whatsoever to the grant of an opportunity of personal hearing to the petitioner notwithstanding the fact that, the petitioner had specifically sought for the same in Ext.P2 reply that was filed to the pre-assssment notice. In that view of the matter, notwithstanding the counter affidavit filed on behalf of the respondent which suggests that the petitioner was afforded an opportunity of personal hearing, although not through any specific written notice, I am of the view that inasmuch as Ext.P3 order has been passed without hearing the petitioner, the same is vitiated on account of a non-compliance with the rules of natural justice. Accordingly, I quash Ext.P3 order and direct the respondent to pass fresh orders of assessment in relation to the petitioner for the assessment year 2013-2014. The respondents shall pass orders as directed within a period of one month from the date of receipt of a copy of this judgment after hearing the petitioner. To enable the respondent to do so, I direct the petitioner to appear before the respondent at his office at 11 am on 17.10.2015.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns