

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

WP(C).No. 28157 of 2015 (T)

PETITIONER(S):

**BHOOMI PRIYA CONSTRUCTIONS
REPRESENTED BY T.R. SHINY, PROPRIETOR,
AGED 43 YEARS, W/O. RAM DAS,
KARUVANTHIRUTHY HOUSE, CHUNANGAD
OTTAPALAM, PALAKKAD DISTRICT**

BY ADV. SRI.S.MURALI

RESPONDENT(S):

- 1. THE STATE OF KERALA REPRESENTED BY
ITS SECRETARY. TAXES, GOVERNMENT OF KERALA
THIRUVANANTHAPURAM - 695 001**
- 2. COMMERCIAL TAX OFFICER, WORKS CONTRACT
DEPARTMENT OF COMMERCIAL TAXES
PALAKKAD - 680 001**

R BY GOVERNMENT PLEADER, SRI. LIJU V. STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 28157 of 2015 (T)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1 TRUE COPY OF THE ASSESSMENT ORDER No.32265510916/2012-2013
DATED 19.08.2015 FOR THE FINANCIAL YEAR 2012-2013**

RESPONDENT(S)' EXHIBITS

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 28157 of 2015

Dated this the 17th day of September, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P1 assessment order, that has been passed by the 2nd respondent completing the assessment of the petitioner for the assessment year 2012-13 under the Kerala Value Added Tax Act. It is the contention of the petitioner that the petitioner was out of station on the date when the notice was served on the petitioner and hence, the notice was returned as unclaimed. The petitioner was not aware of the date of hearing before the 2nd respondent and it was under these circumstances that the petitioner could not be represented at the hearing before the assessing officer.

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

On a consideration of the facts and circumstances of the case and the submissions made across the bar, and taking note of the peculiar facts and circumstances of the case as also the fact that no prejudice would be caused to the department from reconsidering the matter in the light of the records to be produced by the

petitioner, I quash Ext.P1 order and direct the 2nd respondent to complete the assessment in respect of the petitioner, for the assessment year 2012-13 afresh, after hearing the petitioner and perusing the books of accounts of the petitioner. To enable the 2nd respondent to do so, I direct the petitioner to appear before the office of the 2nd respondent at 11.00AM on 30.09.2015. The 2nd respondent shall pass fresh orders of assessment, after hearing the petitioner, within one month thereafter.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE