

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 28578 of 2015 (V)

PETITIONER:

**M/S.AURA JEWELLERS,
KALLIYATH ROYAL SQUARE,
PALACE ROAD, THRISSUR,
REPRESENTED BY ITS MANAGING PARTNER,
K.B.SREERAM.**

**BY ADVS.SMT.S.K.DEVI
SRI.M.RAJ MOHAN**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
DEPT. OF COMMERCIAL TAXES,
I CIRCLE, THRISSUR - 680 001.**
- 2. STATE OF KERALA,
REPRESENTED BY ITS FINANCE SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 28578 of 2015 (V)

APPENDIX

PETITIONERS' EXHIBITS:

EXT. P1 : TRUE COPY OF THE RETURN DATED 24.6.2015.

EXT. P2 : TRUE COPY OF THE ORDER NO.32080542737/14-15(FEBRUARY)
DATED 23.5.2015.

EXT. P2(A) : TRUE COPY OF THE NOTICE OF DEMAND DATED 12.6.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.28578 of 2015
.....
Dated this the 16th day of October, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P2 assessment order passed by the 1st respondent in relation to the petitioner for the month of February 2015. The specific contention of counsel for the petitioner is that the said order was passed without serving a notice on the petitioner and without considering a reply or even affording the petitioner an opportunity of hearing.

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

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar and on a perusal of Ext.P2 order that is impugned in the writ petition, I find that although there is an indication therein that a notice was served on the petitioner on 22.04.2015, there is no indication in the order of the details of the said notice with reference to any number etc. That apart, it is admitted in Ext.P2 order that no reply filed by the petitioner was considered before passing the order and no opportunity for hearing was given to the petitioner. Under the said circumstances, I am of the view that, Ext.P2 order cannot be

legally sustained. Accordingly, I quash Ext.P2 order and I direct the 1st respondent to pass fresh orders of assessment in relation to the petitioner for the period of February 2015 after hearing the petitioner. To enable the 1st respondent to do so, I direct the petitioner to appear before the 1st respondent at his office at 11 am on 30.10.2015. The 1st respondent after hearing the petitioner shall pass orders as directed within a month thereafter.

The writ petition is disposed of as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/16.10.15