IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

W.P.(C).No. 28777 of 2015 (V)

PETITIONER :

RAMLATH HYDROS,
PROPRIETOR,
ALBO NEON,
PATHADIPALAM,
ERNAKULAM.

BY ADVS.SRI.A.A.ZIYAD RAHMAN
SRI.LAL K.JOSEPH
SRI.V.S.SHIRAZ BAVA
SRI.K.H.ANSAR

RESPONDENTS :

1. STATE OF KERALA
REPRESENTED BY ITS COMMISSIONER TO
DEPARTMENT OF COMMERCIAL TAXES,
SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

2. THE COMMERCIAL TAX OFFICER,
1ST CIRCLE, KALAMASSERY,
DEPARTMENT OF COMMERCIAL TAXES,
ERNAKULAM-682 025.

BY GOVERNMENT PLEADER : SRI. LIJU.V.STEPHEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bpr

W.P.(C).No. 28777 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1	TRUE COPY OF THE NOTICE DATED 20.07.2015.
EXT.P2	TRUE COPY OF THE ADJOURNMENT LETTER ON 04.08.2015 SUBMITTED BY THE PETITIONER.
EXT.P3	TRUE COPY OF THE REQUEST LETTER DATED 21.08.2015.
EXT.P3(a)	TRUE COPY OF THE POSTAL RECEIPT DATED 22.08.2015.
EXT.P4	TRUE COPY OF THE ASSESSMENT ORDER BEARING NO. 32071215565/13-14 DATED 31.08.2015.
EXT.P5	TRUE COPY OF THE RELEVANT PAGE OF THE LOCAL DELIVERY BOOK EVIDENCING THE SUBMISSION OF THE DOCUMENTS ON 17.09.2015.
EXT.P6	TRUE COPY OF THE STATEMENT SHOWING THE DETAILS OF THE SALES AND PURCHASES OF ALL THE BILLS MENTIONED IN THE EXT.P1 NOTICE.
EXT.P7	TRUE COPY OF THE STATEMENT SUBMITTED ON 17.09.2015.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

bpr

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.28777 OF 2015 (V)

Dated this the 23rd day of September, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P4 assessment order that has been passed in relation to the petitioner for the assessment year 2013-14 under the KVAT Act. The grievance of the petitioner in the writ petition is that Ext.P4 assessment order was passed without considering the objections of the petitioner, and without affording the petitioner an opportunity of being heard. It is the submission of the petitioner that Ext.P4 assessment order is vitiated through a non-compliance with the rules of natural justice.

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

On a consideration of facts and circumstances of the case and the submissions made across the bar, I find that the petitioner was served with a notice dated 20.07.2015, granting the petitioner fifteen days time for submitting her objection to the proposal of the respondents. The petitioner was also given an opportunity of being heard on 07.08.2015. In response to the notice received by the petitioner, the petitioner requested fifteen days time to file objections and time was granted to the petitioner upto 24.08.2015. It would appear that even by this extended period of time, the petitioner did not file any objection, but sought for a further fifteen days time to complete the audit report and submit the same before the 2nd respondent. The material produced by the petitioner would show that even thereafter, the reconciliation statement and other records were made available to the 2nd respondent only by 17.09.2015. By this time, however, the 2nd respondent had already passed Ext.P4 assessment order on 31.08.2015. It is apparent from the above that the petitioner was granted ample opportunity for production of documents before the 2nd respondent and it was only on account of the fact that the petitioner did not respond to this that Ext.P4 order of assessment came to be passed. I see no reason to interfere with Ext.P4 order in these proceedings under Article 224 of the Constitution of India. Resultantly, the writ petition is challenge against Ext.P4 order fails and is accordingly dismissed.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

bpr