

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 31437 of 2015 (D)

PETITIONER(S):

**O.V. ALEX, AGED 46 YEARS
PROPRIETOR, M/S. MEDICON BIOSYSTEM, 26/1570
A6, 2ND FLOOR, KANJIRAPARAMBIL ESTATE
THEVARA P.O, COCHIN 682 013, ERNAKULAM DISTRICT.**

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER
COMMERCIAL TAXES, 4TH CIRCLE, ERNAKULAM
COCHIN 682 018.**
- 2. INSPECTING ASSISTANT COMMISSIONER
COMMERCIAL TAXES, CIVIL STATION, KAKKANAD 682 030.**
- 3. COMMISSIONER OF COMMERCIAL TAXES
TAX TOWER, KARAMANA P.O, THIRUVANANTHAPURAM 695 022.**

R BY GOVERNMENT PLEADER SMT.LILLY.K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE RELEVANT PAGES OF PURCHASE DATA UPLOADED IN KVATIS MONTHLY E-RETURNS DURING THE YEAR 2012-13.

EXHIBIT P2. COPY OF THE NOTICE U/S. 25(1) OF THE KVATACT FOR THE YEAR 2012-13 ISSUED BY THE PETITIONER, BY 1ST RESPONDENT ALLEGING MISMATCH WITH PURCHASE DATA UPLOADED AND CHECK POST DATA AVAILABLE IN THE KVATIS IN ESTIMATING SALES TURNOVER.

EXHIBIT P3. COPY OF THE LETTER DATED 7.10.15 SUBMITTED BY PETITIONER BEFORE THE 1ST RESPONDENT FOR RECTIFICATION OF MISTAKE IN EXHIBIT P3 ORDER.

EXHIBIT P4. COPY OF THE LETTER DATED 7.10.15 SUBMITTED BY PETITIONER BEFORE THE 1ST RESPONDENT FOR RECTIFICATION OF MISTAKE IN EXHIBIT P3 ORDER.

EXHIBIT P4(A). COPY OF THE RECONCILIATION STATEMENT WITH THE MISTAKE IN FEEDING CHECK POST DATA ENTRY WITH THE ACTUAL PURCHASES MADE AND ACCOUNTED IN THE BOOKS OF ACCOUNTS BY PETITIONER.

EXHIBIT P5. COPY OF THE CIRCULAR NO.C1-45370/09/CT DATED 16.11.09 ISSUED 3RD RESPONDENT, COMMISSIONER OF COMMERCIAL TAXES, DIRECTING OFFICERS, NOT TO COMPLETE ASSESSMENTS FOR THE REASON OF MISMATCH ALONE.

EXHIBIT P6. COPY OF THE REVENUE RECOVERY NOTICE SERVED TO PETITIONER ON 8.10.15 BY 2ND RESPONDENT PURSUANT TO EXHIBIT P3 DEMAND.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.31437 OF 2015 (D)

Dated this the 15th day of October, 2015

J U D G M E N T

Against Ext.P3 assessment order under the KVAT Act, the petitioner had preferred Ext.P4 rectification application before the 1st respondent. It is the case of the petitioner that even prior to considering the rectification application, recovery steps are taken by the respondents through Ext.P6 revenue recovery notice as confirmed by Ext.P3 assessment order.

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

3. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I dispose the writ petition with the following directions:

1. The 1st respondent shall consider and pass orders on Ext.P4 rectification application within a period of one month from the date of receipt of a copy of this

judgment, after hearing the petitioner.

2.Recovery steps for recovery of amounts confirmed against petitioner pursuant to Ext.P3 assessment order shall be kept in abeyance till orders are passed by the 1st respondent as directed above and communicated to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/15/10/15