IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 32144 of 2014 (P)

PETITIONER(S):

DR. REDDY'S LABORATORIES LIMITED,
42/2159E, 2ND FLOOR, CB TOWEWRS
K.K.PADMANABHAN ROAD, KOCHI-18
REPRESENTED BY ITS AUTHORIZED AGENT MR.RAMAKRISHNAN A.
S/O.LATE PRABHAKARAN NAIR, AMAR PLAZA
NEAR VALLATHOL JUNCTION, THRIKKAKKARA, KOCHI-21.

BY ADV. SRI.P.R.VENKETESH

RESPONDENT(S):
----

1. THE COMMISSIONER OF COMMERCIAL TAXES
   KARAMANA, THIRUVANANTHAPURAM-695 002.

2. THE DEPUTY COMMISSIONER, (INT)
   DEPARTMENT OF COMMERCIAL TAXES, EDAPPALLY
   ERNAKULAM-24.

3. THE INTELLIGENCE OFFICER (IB)
   DEPARTMENT OF COMMERCIAL TAXES, EDAPPALLY
   ERNAKULAM-24.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 32144 of 2014 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1.	**TRUE COPY OF THE NOTICE DATED 27/6/2013 FOR THE ASSESSMENT YEAR 2008-2009 ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT**
EXHIBIT P2.	**TRUE COPY OF THE NOTICE DATED 27/6/2013 FOR THE ASSESSMENT YEAR 2009-2010 ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT**
EXHIBIT P3.	**TRUE COPY OF THE NOTICE DATED 27/6/2013 FOR THE ASSESSMENT YEAR 2010-2011 ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT**
EXHIBIT P4.	**TRUE COPY OF THE NOTICE DATED 27/6/2013 FOR THE ASSESSMENT YEAR 2011-2012 ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT**
EXHIBIT P5.	**TRUE COPY OF THE NOTICE DATED 27/6/2013 FOR THE ASSESSMENT YEAR 2012-2013 ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT**
EXHIBIT P6.	**TRUE COPY OF THE OBJECTIONS DATED 29/7/2013 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.**
EXHIBIT P7.	**TRUE COPY OF THE SAID APPLICATION DATED 4/9/2013 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT**
EXHIBIT P8.	**TRUE COPY OF CHALAN TOWARDS REMITTANCE OF THE FEE.**
EXHIBIT P9.	**TRUE COPY OF THE LITERATURE (3 IN NUMBERS).**
EXHIBIT P10.	**TRUE COPY OF THE JUDGMENT THAT WAS SUBMITTED RELATING TO 2004 (167) ELT 20.**
EXHIBIT P11.	**TRUE COPY OF ORDER PASSED BY THE CEGAT, DELHI REPORTED IN 1999 (108) ELT 598.**
EXHIBIT P12.	**TRUE COPY OF THE ORDER NO.15/2008-09 PASSED BY THE DEPUTY COMMISSIONER CENTRAL EXCISE DATED 5/1/2009.**
EXHIBIT P13.	**TRUE COPY OF THE INVOICE RELATING TO THE PRODUCTS.**
EXHIBIT P14.	**TRUE COPY OF THE JUDGMENT DATED 18/10/2013 IN WPC NO.23046/2013 OF THIS HONOURABLE CURT.**
EXHIBIT P15.	**TRUE COPY OF THE NOTICE DATED 31/1/2014 ISSUED BY THE COMMISSIONER.**

PJ

WP(C).No. 32144 of 2014 (P)
----

*

EXHIBIT P16. TRUE COPY OF THE (ASSESSMENT ORDER) ALONG WITH NOTICE OF DEMAND FOR THE YEAR 2008-2009.

EXHIBIT P17. TRUE COPY OF THE (ASSESSMENT ORDER) ALONG WITH NOTICE OF DEMAND FOR THE YEAR 2009-2010

EXHIBIT P18. TRUE COPY OF THE (ASSESSMENT ORDER) ALONG WITH NOTICE OF DEMAND FOR THE YEAR 2010-2011

EXHIBIT P19. TRUE COPY OF THE (ASSESSMENT ORDER) ALONG WITH NOTICE OF DEMAND FOR THE YEAR 2011-2012

EXHIBIT P20. TRUE COPY OF THE (ASSESSMENT ORDER) ALONG WITH NOTICE OF DEMAND FOR THE YEAR 2012-2013

(THE WORDS ASSESSMENT ORDER OCCURRING IN THE DESCRIPTION EXTS.P16 - P20 IS CORRECTED AS ' PENALTY ASSESSMENT ORDER' CORRECTION IS MADE AS PER ORDER DT.11/12/14 IN IA.NO.16966/14

EXHIBIT P21. TRUE COPY OF THE ORDER DATED 9/`/15 OF THE CLARIFICATION COMMITTEE

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.32144 OF 2014

Dated this the 9th day of February, 2015

J U D G M E N T

The challenge in the writ petition is against Exts.P16 to P20 penalty orders that were passed under the Kerala Value Added Tax Act (hereinafter referred to as 'the KVAT Act') for the assessment years 2008-2009 to 2012-2013. The specific case of the petitioner in the writ petition is that while Exts.P16 to P20 penalty orders have been passed on the basis that the product dealt with by the petitioner are cosmetics and not medicines, as contended by the petitioner, the authority for clarification under Section 94 of the KVAT Act has since, by Ext.P21 order, clarified that certain products that are dealt with by the petitioner are classifiable as medicines. It is apparent from Exts.P16 to P20 orders that the 3rd respondent, while passing the said orders, did not have the benefit of Ext.P21 order passed by the authority for clarification. In that view of the matter, I quash Exts.P16 to P20 orders of the 3rd respondent and direct him to reconsider the matter afresh, and pass orders within a period of two months from the date of receipt of a copy of this judgment. While passing fresh orders as directed in this judgment, the 3rd respondent shall take note of Ext.P2 clarification given by the authority for clarification under the KVAT Act, and shall also afford the petitioner an opportunity of being heard.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns