

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

WP(C).No. 31938 of 2015 (N)

PETITIONER(S):

**JOHN C.V., PROPRIETOR,
LE PAPPILON, K.P.TOWERS,
CARRIER STATION ROAD, ERNAKULAM.**

**BY ADVS.SRI.RAJESH NAMBIAR
SRI.N.R.SAJ**

RESPONDENT(S):

**COMMERCIAL TAX OFFICER,
3RD CIRCLE, ERNAKULAM,
PIN - 682 018.**

BY GOVERNMENT PLEADER SMT.LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
20-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 31938 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE NOTICE DTD.16.9.2015 U/S 22(3) OF KVAT.

EXT.P2: TRUE COPY OF THE REPLY DTD.30.9.2015 TO THE EXT.P1 NOTICE.

**EXT.P3: TRUE COPY OF THE ASSESSMENT ORDER DTD.30.9.2015 FOR THE YEAR
2014-15.**

EXT.P4: TRUE COPY OF THE E-MAIL DTD.7.10.2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.31938 OF 2015

Dated this the 20th day of October, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P3 order passed by the respondent, completing the assessment in relation to the petitioner under the Kerala Value Added Tax Act for the assessment year 2014-2015. The challenge against Ext.P3 order is essentially that the said order was passed on the same day as the receipt of the reply filed by the petitioner, and the petitioner was not afforded a personal hearing before passing Ext.P3 order. It is also the case of the petitioner that there was a clarification order that was passed in favour of the petitioner which aspect is not considered by the respondent while passing Ext.P3 order.

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

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that, inasmuch as the respondent passed Ext.P3 order on the same date as the date on which he received the reply from the petitioner, pursuant to the pre-assessment notice served on the petitioner,

and did not grant the petitioner an opportunity of being heard in the matter, Ext.P3 order is vitiated by a non-compliance with the rules of natural justice. Accordingly, I quash Ext.P3 order and direct the respondent to pass fresh orders in the matter after hearing the petitioner within a period of two months from the date of receipt of a copy of this judgment. To enable the respondent to do so, I direct the petitioner to appear before the respondent at his office at 11 am on 03.11.2015.

A.K.JAYASANKARAN NAMBIAR
JUDGE

