

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 32717 of 2015 (L)

PETITIONER :

**KAJAH NETWORK,
KAJAH NETWORKS PPI 361, FIRST FLOOR,
RAMAPURAM, ALAPPUZHA,
REPRESENTED BY SRI.A.ABDUL AZEEZ, PARTNER.**

**BY ADVS.SRI.K.N.SREEKUMARAN
SRI.P.D.UNNIKANNAN NAIR
SMT.V.PSEENA DEVI**

RESPONDENT :

**COMMERCIAL TAX OFFICER - I,
HARIPAD, ALAPPUZHA DT.**

BY GOVERNMENT PLEADER SMT. LILLY.K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.32717/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE MONTHLY RETURN IN FORM 10 FOR 4/2015 FILED ON 15/5/2015 BEFORE THE RESPONDENT**
- P2 COPY OF THE NOTICE U/S 25(1) DATED 1/9/2015 ISSUED BY THE RESPONDENT**
- P3 COPY OF THE REPLY AND ENCLOSURES FILED BEFORE THE RESPONDENT PURSUANT TO EXT-P2**
- P4 COPY OF THE ASSESSMENT ORDER NO.32041277346/2015-16 DATED 7/10/2015 ISSUED BY THE RESPONDENT**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 32717 of 2015

Dated this the 28th day of October, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P4 assessment order passed by the respondent, completing an assessment under the Kerala Value Added Tax Act, hereinafter referred to as the KVAT Act, in relation to the petitioner for the month of April 2015. The main ground of challenge against Ext.P4 in the writ petition is that, before passing Ext.P4 order the petitioner was not afforded an opportunity of hearing, notwithstanding the fact that the petitioner specifically sought for a hearing before the respondent.

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

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find from Ext.P4 that, although the petitioner had furnished a detailed reply to the pre-assessment notice and also specifically requested for an opportunity of hearing and sought for the posting of the matter on any convenient date that was to be communicated to the petitioner,

the respondent proceeded to pass Ext.P4 order, without granting the petitioner the hearing that was sought for. Under the said circumstances, I am of the view that Ext.P4 order cannot be legally sustained for non-compliance with the rules of natural justice. I therefore, quash Ext.P4 and direct the respondent to pass fresh orders in the matter, after affording the petitioner an opportunity of being heard. The respondent shall pass fresh orders as directed 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 office of the respondent at 11 AM on 05.11.2015.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE