IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

WP(C).No. 33516 of 2015 (V)

PETITIONER :

A.C.SUDHIR, AGED 44 YEARS,
SAC STRUCTURES, AYINIPILLYMANA,
MEKKADAMPU P.O., MUVATTUPUZHA-682316

BY ADVS.SRI.AJI V.DEV
SRI.SUSHANTH.J.

RESPONDENTS :
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1. **COMMERCIAL TAX OFFICER, [WORKS CONTRACT]**
   O/O THE DEPUTY COMMISSIONER, COMMERCIAL TAXES,
   MATTANCHERRY - 682 002

2. **DEPUTY COMMISSIONER,**
   COMMERCIAL TAXES, MATTANCHERRY-682 002

3. **INTELLIGENCE OFFICER(IB)**
   COMMERCIAL TAXES, ERNAKULAM-682 015

4. **INSPECTING ASST. COMMISSIONER,**
   COMMERCIAL TAXES, MUVATTUPUZHA-686 661

BY GOVERNMENT PLEADER SMT. LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 33516 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: **A TRUE COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT FOR THE YEAR 11-12 DT. 24/10/14.**

EXT.P2: **A TRUE COPY OF THE PRE-ASSESSMENT NOTICE ISSUED FOR THE YEAR 11-12 DT. 16/8/15.**

EXT.P3: **A TRUE COPY OF THE REPLY FILED FOR THE YEAR 11-12 T. 25/9/15.**

EXT.P4: **A TRUE COPY OF THE COMPOUNDING APPLICATION FILED IN FORM NO. 1B DT. 25/4/11 FOR THE YEAR.**

EXT.P5: **TRUE COPY OF THE ANNUAL RETURN FILED FOR THE YEAR 11-12 DT. 17/09/15.**

EXT.P6: **A TRUE COPY OF THE AUDITED STATEMENT OF ACCOUNTS FILED FOR THE YEAR DT. 22/9/15.**

EXT.P7: **A TRUE COPY OF THE DETAILS OF WORK IN PROGRESS DT. 25/9/15 FOR THE YEAR.**

EXT.P8: **A TRUE COPY OF THE DISPUTED ASSESSMENT ORDER PASSED FOR THE YEAR 11-12 DT. 30/9/15**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 33516 of 2015

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Dated this the 4th day of November, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P8 order of assessment in relation to the petitioner under the Kerala Value Added Tax Act, for the assessment year 2011-12. The grievance of the petitioner in the writ petition is essentially that, before passing Ext.P8 order, the petitioner was not afforded an opportunity of hearing and further, there is no consideration of the contentions of the petitioner, while passing Ext.P8 order.

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 that in Ext.P8 order, there is no reference to any hearing conducted by the 1st respondent and further, although the objections raised by the petitioner to the proposals for assessment are reproduced in the order of the 1st respondent, there is no consideration of the said objections while arriving at a conclusion with regard to the assessment completed on the petitioner. I, therefore, find that

Ext.P8 order is vitiated by a patent non-application of mind and also by non-compliance with the rules of natural justice. Accordingly, I quash Ext.P8 order and direct the 1st respondent to complete the assessment in relation to the petitioner for the assessment year 2011-12 under the KVAT Act, afresh, after hearing the petitioner. To enable the 1st respondent to do so, I direct the petitioner to appear before the 1st respondent at his Office at 11AM on 12.11.2015. The 1st respondent shall pass orders as directed within one month, thereafter.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

das /04.11.15