

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 34510 of 2014 (K)

PETITIONER:

A.M.FISHERIES AGED 37 YEARS
XIII/378, KAKKAZHOM, VANDANAM P.O.
ALAPPUZHA - 688 005
REPRESENTED BY ITS MANAGING PARTNER, M. NIZAM.

BY ADV. SRI JOSE JACOB

RESPONDENT:

COMMERCIAL TAX OFFICER
FIRST CIRCLE
CIVIL STATION BUILDING ALAPPUZHA - 688 001.

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXHIBIT-P1-TRUE COPY OF THE AGREEMENT

EXHIBIT-P2-TRUE COPY OF THE DEBIT NOTES RAISED BY
THE PETITIONER ON M/S. PREMIER MARINE FOODS

EXHIBIT-P3-TRUE COPY OF THE AUDITED PROFIT AND LOSS
STATEMENT OF THE PETITIONER RELATING TO FY 2012-13

EXHIBIT-P4-TRUE COPY OF THE FORM 26AS RELATING TO
THE PETITIONER FOR THE YEAR 2012-13

EXHIBIT-P5-TRUE COPY OF THE NOTICE ISSUED BY THE
RESPONDENT.

EXHIBIT-P6-TRUE COPY OF THE NOTICE ISSUED BY THE
RESPONDENT

EXHIBIT-P7-TRUE COPY OF THE REPLY FILED BY THE
PETITIONER.

EXHIBIT-P8-TRUE COPY OF THE ORDER PASSED BY THE
RESPONDENT.

EXHIBIT-P9-TRUE COPY OF THE CHALAN EVIDENCING
PAYMENT OF SERVICE TAX.

RESPONDENTS' EXHIBITS:

NIL

// TRUE COPY //

P.A. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.34510 OF 2014

Dated this the 27th day of January, 2015

J U D G M E N T

The petitioner challenges Ext.P8 assessment order passed under the Kerala Value Added Tax Act. The main contention of the petitioner in the writ petition is that Ext.P8 order was passed without affording the petitioner an opportunity of hearing. On a perusal of Ext.P8 order, it is evident that while the assessing officer had considered the reply filed by the petitioner to the notice issued to him, there was no hearing granted to the petitioner to substantiate his contentions in the reply.

2. I have heard Sri.Jose Jacob, the learned counsel appearing for the petitioner as also Smt.Sobha Annamma Eappen, the learned Government Pleader appearing for the respondent.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I am of the view that Ext.P8 order is one that is passed in violation of the rules of natural justice. Ext.P8 order is, therefore, quashed and the respondent is directed to reconsider the matter and pass fresh orders of assessment for the year 2012-2013, after affording the petitioner an opportunity of being heard. To enable the respondent

to do this, the petitioner shall appear before the respondent at 11.00 A.M. on 4.2.2015. The respondent shall thereafter pass orders in the matter within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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