IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C).No. 34661 of 2015 (G)

PETITIONER :

M/S. GREEN WEDDING CENTRE
UNIVERSITY ROAD, RAMANATTUKARA
KOZHIKODE DISTRICT - 673 633
REPRESENTED BY IT'S MANAGING PARTNER ABDUL AZEEZ.

BY ADVS.SRI.P.N.DAMODARAN NAMBOODIRI
SRI.P.UNNIKRISHNAN (THRISSUR)

RESPONDENTS :

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1. THE COMMERCIAL TAX OFFICER, IV CIRCLE,
   DEPARTMENT OF COMMERCIAL TAXES
   KOZHIKODE - 673 001.

2. INSPECTING ASSISTNAT COMMISSIONER,
   DEPARTMENT OF COMMERCIAL TAXES, KOZHIKODE - 673 001.

3. THE COMMISSIONER OF COMMERCIAL TAXES
   DEPARTMENT OF COMMERCIAL TAXES, KARAMANA
   THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. RANJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 34661 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: TRUE COPY OF THE PURCHASE INVOICE NO. 5988 DT. 02.7.2014 MADE FROM M/S. INDU FAB, SHIRINGS HOUSE, CHICKPET CROSS, BANGALORE - 560 053, TO THE PETITIONER.

P1(A): TRUE COPY OF THE PURCHASE INVOICE NO. 5989 DT. 02.7.2014 MADE FROM M/S. INDU FAB, SHIRINGS HOUSE, CHICKPET CROSS, BANGALORE - 560 053, TO THE PETITIONER.

P1(B): TRUE COPY OF THE PURCHASE INVOICE NO. 591 DT. 11.07.2014 ISSUED BY M/S. VASTRA INC, NO.16, VICTORY AVENUE 3RD FLOOR, AVENUE CROSS ROAD, BANGALORE - 560 053 TO THE PETITIONER.

P1(C): TRUE COPY OF THE PURCHASE INVOICE NO. 592 DT. 11.7.2014 ISSUED BY M/S. VASTRA INC, NO.16, VICTORY AVENUE, 3RD FLOOR, AVENUE CROSS ROAD, BANGALORE - 560 053 TO THE PETITIONER.

P2: TRUE COPY OF THE NOTICE NO. 32110971715/2014-15 DT. 03.9.2015 FOR THE YEAR 2014-15 ISSUED BY THE 1ST RESPODENT TO THE PETITIONER.

P3: TRUE COPY OF THE REPLY DT.29.09.2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

P4: TRUE COPY OF THE ASSESSMENT ORDER BEARING NO. 32110971715/2014-15 DT. 29.09.2015 FOR THE YEAR 2014-15 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

P5: TRUE COPY OF THE JUDGEMNT IN WRIT PETITION BEARING WPC NO. 14332/2010 DT. 02.6.2010 IN SUZION INFRASTRUCTURE SERVICE LTD V/S COMMERCIAL TAX OFFICER.

P6: RUE COPY OF THE CIRCULAR BEARING NO. C1-45370/09/CT DT 16.11.2009, ISSUED BY THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.34661 of 2015

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Dated this the 17th day of November, 2015

<u>J U D G M E N T</u>

The challenge in the writ petition is against Ext.P4 order of assessment that was passed in relation to the petitioner for the assessment year 2014-2015 under the Kerala Value Added Tax Act. The grievance of the petitioner against Ext.P4 order is essentially that before passing the said order the petitioner was not afforded an opportunity to file objections, and further, an effective opportunity to contest the proposal in the pre-assessment notice was also not provided to him. It is therefore the contention of the petitioner that Ext.P4 order is vitiated by a non-compliance with the rules of natural justice.

2. I have heard the learned counsel appearing on behalf of the petitioner and the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find from Ext.P4 order that the petitioner was served with notice under Section 25 (1) asking the petitioner to appear for a personal hearing in

connection with the completion of the assessment on 26.09.2015. It is not in dispute that the petitioner appeared before the assessing authority on the said date and made submissions with regard to the proposals that were stated in the pre-assessment notice. The 1st respondent assessing authority, however, found that the petitioner had not produced even a single invoice to substantiate his contention that among the purchases mentioned in the notice most of the purchases were of textiles. It is under the said circumstances, that the 1st respondent assessing authority proceeded to confirm the proposals in the notice and pass Ext.P4 order against the petitioner. I find no reason to interfere with Ext.P4 assessment order in these proceedings under Article 226 since I find that the petitioner had been given an effective opportunity to rebut the proposals in the pre-assessment notice and also afforded a personal hearing. I therefore dismiss the writ petition in its challenge against Ext.P4 order of assessment.

Counsel for the petitioner would seek some time to pursue his appellate remedy against Ext.P4 assessment order. Taking note of the said submission of counsel for the petitioner, I direct that recovery steps for recovery of amounts confirmed against the petitioner by Ext.P4 assessment order shall be kept in abeyance for a period of month so as to enable the petitioner to pursue his appellate remedy against Ext.P4 order.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/17.11.15