

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

WP(C).No. 35194 of 2015 (Y)

PETITIONER :

**M/S. ASHOK LEYLAND LTD. NO.23/500E
KALLUPURAKAL CENTRE
EDAPPALLY – POOKATTUPADI ROAD
UNNICHIRA THYKKAVU, CHANGAMPUZHA NAGAR P.O.,
COCHIN – 682 033
REPRESENTED BY ITS SENIOR MANAGER
THOMAS BABY K.**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMT.G.MINI
SRI.P.S.SREE PRASAD**

RESPONDENT(S) :

- 1. ASSISTANT COMMISSIONER (ASSESSMENT)
KVAT SPECIAL CIRCLE – I
ERNAKULAM – 682 016.**
- 2. INSPECTING ASSISTANT COMMISSIONER
DEPARTMENT OF COMMERCIAL TAXES
ERNAKULAM – 682 016.**
- 3. INSPECTING ASSISTANT COMMISSIONER
COMMERCIAL TAXES
REVENUE RECOVERY, KAKKANADU
ERNAKULAM – 682 033.**

R1 TO R3 BY GOVT. PLEADER SMT. K.T. LILLY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE NOTICE UNDER SEC.25(1) DATED 31/7/2015.
- EXT.P2 COPY OF THE NOTICE UNDER SEC.67(1) DATED 31/7/2015.
- EXT.P3 COPY OF THE SAID REQUEST DATED 11/8/2015 FOR TIME MADE BY THE PETITIONER ALSO EVIDENCING THE ACKNOWLEDGEMENT.
- EXT.P4 COPY OF THE SAID REPLY SENT BY MAIL DATED 9/9/2015.
- EXT.P5 COPY OF THE ASSESSMENT ORDER UNDER SEC 25(1) DATED 31/8/2015.
- EXT.P6 COPY OF THE ASSESSMENT ORDER UNDER SEC 67(1) DATED 31/8/2015.
- EXT.P7 COPY OF THE RECTIFICATION PETITION DATED 6/10/2015.
- EXT.P8 COPY OF THE SAID REVENUE RECOVERY NOTICES DATED 17/11/2015 FOR VAT.
- EXT.P9 COPY OF THE SAID REVENUE RECOVERY NOTICES DATED 17/11/2015 FOR PENALTY.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.35194 OF 2015 (Y)

Dated this the 21st day of November, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P5 assessment order and Ext.P6 penalty order passed by the 1st respondent. The grievance of the petitioner against Exts.P5 and P6 orders is essentially that the said orders were passed without hearing the petitioner and further the said orders do not contain any reasons for the conclusion arrived at therein.

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

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that Exts.P5 and P6 orders are orders passed by the 1st respondent bereft of any reasoning. It is also evident from Exts.P5 and P6 orders that before passing the said orders, the petitioner was not heard. I therefore find Exts.P5 and P6 to be legally unsustainable, and therefore, I quash the

same. The 1st respondent is directed to pass fresh orders of assessment and penalty, after affording the petitioner an opportunity of being heard, within a period of one month from the date of receipt of a copy of this judgment. To enable the 1st respondent to do so, I direct the petitioner to appear before the 1st respondent, at his office, at 11.00 a.m. on 2.12.2015.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/21/11/15