IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

WP(C).No. 35778 of 2015 (V)

PETITIONER(S):

M/S. RAM CHARAN COMPANY,
36/6800 B, NEW NO.61/889, 4TH FLOOR A,
VALLAMATTAM ESTATE, RAVIPURAM, M.G.ROAD,
ERNAKULAM - 682 035, REPRESENTED BY ITS PARTNER,
MR.SANJAY K.BHATIA.

BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMTG.MINI(1748)
SRI.P.S.SREE PRASAD

RESPONDENT(S):

ASSISTANT COMMISSIONER (ASSMT),
SPECIAL CIRCLE I, COMMERCIAL TAXES,
ERNAKULAM - 682 015.

BY GOVERNMENT PLEADER SMT.LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
01-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 35778 of 2015 (V)

<u>APPENDIX</u>

PETITIONER(S)' EXHIBITS

EXHIBIT P1. TRUE COPY OF THE NOTICE DATED 22.02.2015.

EXHIBIT P2. TRUE COPY OF THE COVERING LETTER DATED 10.03.2015 EVIDENCING ACKNOWLEDGEMENT ALONG WITH THE STATEMENT OF C FORMS RECEIVED DURING THE YEAR 2009-10.

EXHIBIT P3. TRUE COPY OF THE ASSESSMENT ORDER DATED 31.07.2015.

EXHIBIT P4. TRUE COPY OF THE RECTIFICATION PETITION DATED 14.09.2015 FILED AGAINST THE ASSESSMENT ORDER.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 35778 of 2015
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Dated this the 1st day of December, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P3 order of assessment passed in relation to the petitioner under the Central Sales Tax Act, for the assessment year 2009-10. The grievance of the petitioner against Ext.P3 order is that, although the petitioner had submitted copies of the C-forms received by him before the respondent, as evidenced by Ext.P2 covering letter dated 10.03.2015, which was acknowledged by the respondent, the respondent while passing Ext.P3 order, did not refer to the said letter and its contents and mechanically confirmed the demand on the petitioner by finding that C-form declarations were not filed in support the claim for concessional rate of tax.

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

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find, from Ext.P2 letter that is produced along with the writ petition, that the petitioner appears to have been submitted C-forms for the value of Rs.25,33,550/-, before the respondent. The covering letter which accompanied the said C-form declarations is seen acknowledged by the respondent on 10.03.2015. Under the circumstances, the respondent ought to have referred to the said C-forms received under cover of Ext.P2 letter at the time of passing final orders of assessment for the assessment year in question. In Ext.P3, there is no reference to the said C-forms, which are stated to have been submitted before the respondent by the petitioner. I, therefore, quash Ext.P3 order, as vitiated by a non application of mind, and direct the respondent to complete the assessment in relation to the petitioner for the assessment year 2009-10 under the CST Act, afresh, after hearing the petitioner. To enable the respondent to do so, I direct the petitioner to appear before the Office of the respondent at 11 AM on 15.12.2015 with the duplicate copies of the C-forms, which are referred to in Ext.P2 letter, sent by the petitioner to the respondent. If the respondent does not have the originals of the C-forms submitted to him by the petitioner, then a verification can be done with the duplicates to be produced by the petitioner, at the time of hearing. The respondent shall pass fresh orders of assessment as directed, within a period of one month after the date of hearing.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /1.12.15