IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

WP(C).No. 35983 of 2015 (W)

---------------------------

PETITIONER :

---------------------

M/S.GOLD FINGER (EST.) PRIVATE LIMITED.,
13/741, KUNNAMANGALAM, KOZHIKODE.

BY ADVS.SRI.M.P.SHAMEEM AHAMED
SRI.CYRIAC TOM
SRI.S.K.SAJU
SRI.A.RANJITH NARAYANAN

RESPONDENT(S):

----------------------------

1. THE COMMERCIAL TAX OFFICER (WORKS CONTRACT), COMMERCIAL TAXES, KOZHIKODE-673 001

2. STATE OF KERALA, (REPRESENTED BY DY. COMMISSIONER-LAW, COMMERCIAL TAXES), ERNAKULAM-682 018

BY GOVERNMENT PLEADER SRI.R.RANJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.35983/2015

## APPENDIX

PETITIONER'S EXHIBITS:

| | |
|---|---|
| P1 | COPY OF THE PRE-ASSESSMENT NOTICE DATED 19/09/2015 |
| P2 | COPY OF THE LETTER SEEKING EXTENSION OF TIME FOR THE PERSONAL HEARING ON 7/10/2015. |
| P3 | COPY OF THE LETTER INTIMATING THE PETITIONER THAT THE HEARING HAS BEEN FIXED ON 27 OCTOBER 2015. |
| P4 | COPY OF THE EX-PARTE ASSESSMENT ORDER DATED 26/10/2015 |
| P5 | COPY OF THE DEMAND NOTICE DATED 26/10/2015. |

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.S.TO JUDGE

sts

**A.K.JAYASANKARAN NAMBIAR, J.**

**-------------------------------**

**W.P.(C).NO.35983 OF 2015 (W)**

**-----------------------------------**

**Dated this the 27th day of November, 2015**

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

The challenge in the writ petition is against Ext.P4 assessment order passed by the 1st respondent, completing the assessment in relation to the petitioner under the Kerala Value Added Tax Act for the assessment year 2012-13. The grievance of the petitioner against Ext.P4 order is essentially that the 1st respondent had granted him an opportunity of personal hearing on 27.10.2015, whereas, even before he could appear before the Assessing officer, the Assessing Officer proceeded to pass an order dated 26.10.2015. It is the case 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 for the petitioner as also the learned Government Pleader for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find from Ext.P4 order that the said order is dated 26.10.2015, and the same date is also mentioned in Ext.P5 notice of demand pursuant to the assessment order. In Ext.P4 order itself, there is a reference made by the 1st respondent to a notice dated 5.10.2015, which was issued to the petitioner calling him for a personal hearing on 27.10.2015. It follows, therefore, that the 1st respondent could not have passed an assessment order on the previous day, that is, 26.10.2015. I therefore quash Ext.P4 order, and direct the 1st respondent to complete the assessment in relation to the petitioner for the assessment year 2012-13 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 11.00 a.m. on 9.12.2015. The 1st respondent shall pass fresh orders, as directed, within a period of one month thereafter.

The writ petition is disposed as above.

**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

prp/27/11/15