

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

WP(C).No. 36388 of 2015 (W)

PETITIONER(S):

**M/S.ASIA POWERCOM PVT. LTD.,
CC NO.38/1993 A-7, GANDHI NAGAR,
COCHIN-682020 REPRESENTED BY ITS
KOCHI BRANCH MANAGER SRI.ANTONY GEORGE.**

BY ADV. SRI.TOMSON T.EMMANUEL

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES, 2ND CIRCLE,
THRIPUNITHURA-682301.**
- 2. ASSISTANT COMMISSIONER,
SPECIAL CIRCLE-II, COMMERCIAL TAXES, THEVARA,
ERNAKULAM-682015.**
- 3. COMMISSIONER OF COMMERCIAL TAXES,
TAX TOWER, KARAMANA P.O., THIRUVANANTHAPURAM-695022.**

BY GOVERNMENT PLEADER SMT.LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 :** TRUE COPY OF THE REGISTRATION CERTIFICATE DT.7-6-2007 UNDER THE KVAT AND CST ACTS ISSUED BY R1 AND WHICH WAS ENDORSED WITH ADDRESS CHANGE BY R2 ALSO UNDER RELEVANT PERIOD.
- P2 :** TRUE COPY OF THE LETTER DT.3-4-2013 FOR THE INTIMATION FOR SHIFTING BUSINESS PLACE TO GANDHI NAGAR, COCHIN-682020 WHICH WAS ACKNOWLEDGED BY R2.
- P2A :** TRUE COPY OF THE RENTAL AGREEMENT DT.1-4-2013 ACCOMPANIED WITH EXT.P2 LETTER, SUBMITTED BEFORE R2.
- P3 :** TRUE COPY OF THE ANNUAL E-RETURN FOR THE YEAR 2013-14 DT.26-6-2014 SUBMITTED BY PETITIONER BEFORE R1.
- P4 :** TRUE COPY OF THE AUDIT REPORT IN FORM NO.13 & 13A FOR THE YEAR 13-14 DT.31-1-2015 ALONG WITH PROFIT AND LOSS ACCOUNT PERTAINING TO BRANCH IN KERALA.
- P5 :** TRUE COPY OF THE CIRCULAR NO.28/2012 DT.29-10-2012 ISSUED BY R3 FOR COLLECTION OF DETAILS OF ASSESSEE FOR SENDING PROPER NOTICE AND COMMUNICATION, AS PER THE DIRECTIONS OF THIS HON'BLE COURT.
- P6 :** TRUE COPY OF THE JUDGMENT DT.29-10-2015 IN WPC 32830/2015 PASSED BY THIS HON'BLE COURT FOR THE PREVIOUS ASSESSMENT YEAR OF PETITIONER, ON VERY SAME REASON.
- P7 :** TRUE COPY OF THE ASSESSMENT ORDER DT.31-8-2015 COMPLETED U/S.25 (1) OF THE KVAT ACT FOR 2013-14 ISSUED BY R1 ISSUED TO PETITIONER ON 27-11-2015.
- P7A :** TRUE COPY OF THE CERTIFIED COPY OF ASSESSMENT ORDER DT.31-8-2015 COMPLETED U/R.6(5) TO CST RULES FOR 2013-14 ISSUED TO PETITIONER BY R1 ISSUED TO PETITIONER ON 27-11-2015.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 36388 of 2015

Dated this the 2nd day of December, 2015

JUDGMENT

The challenge in the writ petition is against Exts.P7 and P7(a) orders of assessment passed in relation to the petitioner for the assessment year 2013-14 under the Kerala Value Added Tax Act, (hereinafter referred to as the KVAT Act) and Central Sales Tax Act, (hereinafter referred to as the CST Act) respectively. The grievance of the petitioner against Exts.P7 and P7(a) orders is essentially that, before passing the said orders, the 1st respondent did not grant the petitioner an opportunity of personal hearing.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing 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 for the assessment year immediately prior to the assessment year in question, the petitioner was served with assessment orders, similar to those that are impugned in the writ petition, and by Ext.P6 judgment, this Court had, taking note of the fact that a notice was sent to the former address of the petitioner, quashed the

assessment orders and directed the assessing authority to reconsider the matter, after hearing the petitioner. Taking cue from the said judgment, I quash Exts.P7 and P7(a) orders, that are impugned in the present writ petition and direct the 1st respondent to consider the matter afresh and pass fresh orders for the assessment year 2013-14 in relation to the petitioner under the KVAT Act and CST Act, respectively, 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 AM on 19.12.2015. The 1st respondent shall pass orders as directed, within a period of one month thereafter.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE