

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 7TH DAY OF DECEMBER 2015/16TH AGRAHAYANA, 1937

WP(C).No. 36885 of 2015 (I)

PETITIONER :

**A.C.JOSEPH, PROPRIETOR,
M/S. AKKARA JEWELLERY, OLLUR.P.O.,
THRISSUR-680 306.**

**BY ADVS.SMT.S.K.DEVI
SRI.SANTHOSH P.ABRAHAM**

RESPONDENT :

**THE COMMERCIAL TAX OFFICER,
DEPARTMENT OF COMMERCIAL TAXES,
IVTH CIRCLE, COMMERCIAL TAX COMPLEX,
POOTHOLE, THRISSUR-680 004.**

BY GOVERNMENT PLEADER SRI.R.RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.36885/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE PERMISSION TO PAY COMPOUNDED TAX UNDER SECTION 8(7) IN FORM 4DF DATED 18/5/2011 ISSUED BY THE RESPONDENT.**
- P2 COPY OF THE NOTICE NO.32081444065/11-12 DATED 19/10/2015 ISSUED BY THE RESPONDENT**
- P3 COPY OF THE REQUEST DATED 12/11/2015 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT**
- P4 COPY OF THE ADJOURNMENT NOTICE NO.32081444065/2011-12 DATED 16/11/2015 ISSUED BY THE RESPONDENT**
- P5 COPY OF THE ORDER NO.32081444065/2011-12 DATED 11/11/2015 AND THE DEMAND NOTICE ISSUED BY THE RESPONDENT**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.36885 of 2015
.....
Dated this the 7th day of December, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P5 rectification order passed by the respondent in relation to the petitioner for the assessment year 2011-2012 under the Kerala Value Added Tax Act. The grievance of the petitioner in the writ petition is essentially that, while the petitioner was called for a hearing in connection with the proposal for rectification on 26.11.2015, the respondent proceeded to pass the order on 11.11.2015 without hearing the petitioner. It is stated, therefore, that Ext.P5 order is vitiated by a non-compliance with the rules of natural justice.

2. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondent.

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find from Ext.P5 order that the said order was passed even before the petitioner had an opportunity to rebut the proposals for rectification initiated by the respondent, and without hearing the petitioner. I, therefore, quash

Ext.P5 order and direct the respondent to afford the petitioner an opportunity of filing a reply to the proposal for rectification communicated to the petitioner, and thereafter, hear the petitioner before passing fresh orders on the rectification proposal. The petitioner shall file his objections to the proposal for rectification within two weeks from the date of receipt of a copy of this judgment. He shall thereafter appear for a personal hearing before the respondent at 11 a.m on 29.12.2015. The respondent shall pass fresh orders, as directed, within a month thereafter.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/07.12.15

