IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

WP(C).No. 37378 of 2015 (V)

PETITIONER :

V.ABDUL KHADER
VENGALIYIL POULTRY FARM & HATCHERY, 6/423 B
9/107C, VILAYUR, PATTAMBI, PALAKKAD.

BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V. MENON

RESPONDENT(S) :

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1. THE ASST.COMMISSIONER (ASSESSMENT)
SPECIAL CIRCLE, PALAKKAD-678 001.

2. THE INTELLIGENCE OFFICER
SQUAD NO.I, DEPARTMENT OF COMMERCIAL TAXES
PALAKKAD-678 001.

3. THE INSPECTING ASST. COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES, PALAKKAD-678 001.

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

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 37378 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT. P1 : COPY OF ORDER PASSED BY THE 2ND RESPONDENT TO THE PETITIONER DT 16-4-2015.

EXT. P2 : COPY OF APPLICATION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DT 17-7-2015.

EXT. P3 : COPY OF PRE-ASSESSMENT NOTICE ISSUED BY THE 1ST RESPONDENT DT 22-7-2015.

EXT. P4 : COPY OF REPLY FILED BY THE PETITIONER BEFORE 1ST RESPONDENT DT. 29-7-2015.

EXT. P5 : COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DATED 31-7-2015.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.37378 of 2015

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Dated this the 10th day of December 2015

JUDGMENT

The challenge in the writ petition is against Ext.P5 order of assessment in relation to the petitioner under the KVAT Act for the assessment year 2012-13. The grievance of the petitioner in the writ petition is essentially that while in Ext.P5 order, the 1st respondent assessing authority admits that the petitioner had filed a revised return as per Section 22(10) of the KVAT Act, the order proceeds further without considering the contents of the said revised return. It is also pointed out that in Ext.P5 order, the 1st respondent has not given any reason as to why the contents of the revised return will not be considered by him while completing the assessment against the petitioner.

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

On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I am of the view that inasmuch as the petitioner was permitted to file a revised return and he had in fact filed a revised return which was available before the 1st respondent assessing authority, the assessing authority ought to have considered the said return before completing the assessment in relation to the petitioner for the assessment year in question. Inasmuch as in Ext.P5 order, I do not see the said exercise as having been done, I quash the same and direct the 1st respondent assessing authority to pass fresh orders of assessment in relation to the petitioner, taking note of the revised return filed by the petitioner for the assessment year in question. To enable the 1st respondent to do so, I direct the petitioner to appear before the 1st respondent at his office at 11 a.m. On 21.12.2015. The 1st respondent shall pass orders as directed within a month thereafter.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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