

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. 37448 of 2015 (E)

PETITIONER(S) :

**KAJAH NETWORK,
KAJAH NETWORKS PPI 361, FIRST FLOOR, RAMAPURAM,
ALAPPUZHA REPRESENTED BY SRI.A. ABDUL AZEEZ, PARTNER**

**BY ADVS.SRI.K.N.SREEKUMARAN
SMT.V.P.SEENA DEVI**

RESPONDENT(S) :

- 1. COMMERCIAL TAX OFFICER
HARIPAD, ALAPPUZHA DT 690 514.**
- 2. INSPECTING ASSISTANT COMMISSIONER
COMMERCIAL TAXES, ALAPPUZHA 688 001.**

BY SMT.LILLY.K.T., GOVERNMENT PLEADER

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

AMV

WP(C).No. 37448 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS :

- | | |
|-------------------|---|
| EXHIBIT P1 | COPY OF THE ASSESSMENT ORDER DATED 1-9-2015 FOR 4/2015 ISSUED BY THE RESPONDENT. |
| EXHIBIT P2 | COPY OF THE JUDGMENT DATED 28-10-2015 OF THE HON'BLE HIGH COURT IN W.P(C) 32717/2015. |
| EXHIBIT P3 | COPY OF THE NOTICE FOR THE MONTH OF MAY, 2015 DATED 1-10-2015 ISSUED BY THE 1ST RESPONDENT. |
| EXHIBIT P4 | COPY OF REPLY DATED 30-10-2015 ALONG WITH ENCLOSURES SUBMITTED TO THE 1ST RESPONDENT. |
| EXHIBIT P5 | COPY OF THE ASSESSMENT ORDER NO 32041277346/2015-16 (MAY) DATED 19-11-2015 ISSUED BY THE 1ST RESPONDENT. |

RESPONDENT(S)' EXHIBITS : **NIL**

/TRUE COPY/

P.A.TO JUDGE

AMV

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 37448 of 2015

Dated this the 10th day of December, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P5 order of assessment passed in relation to the petitioner for the month of May 2015 under the Kerala Value Added Tax Act. The grievance of the petitioner in the writ petition is essentially that, before passing Ext.P5 order, the petitioner was not afforded an opportunity of being heard. It is stated therefore, that Ext.P5 order is vitiated by non compliance with the rules of natural justice.

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

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that in the reply preferred by the petitioner, to the pre-assessment notice that was served on him, the petitioner apart from raising various contentions with regard to the merits of the case, had also indicated the requirement for a personal hearing prior to completion of assessment. In Ext.P5 order, there is no reference seen to any personal hearing, that was accorded to the petitioner. Under the

said circumstances, I am of the view that, Ext.P5 order cannot be legally sustained. I therefore, quash the same and direct the 1st respondent to pass fresh orders of assessment in relation to the petitioner for the aforementioned period, after hearing him. 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 23.12.2015. The 1st respondent shall pass fresh orders as directed, within a month thereafter, after referring to the objections raised by the petitioner at the time of hearing.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE