

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

WP(C).No. 38351 of 2015 (T)

PETITIONER:

**M/S.S.E.DEVELOPERS, XX/243,
PALLIKODATHIL KALAYIL,
VADASSERIKKARA - 689 662,
PATHANAMTHITTA DISTRICT,
REPRESENTED BY ITS MANAGING PARTNER
K.SHUNMUGHAM.**

**BY ADVS.SRI.V.DEVANANDA NARASIMHAM
SRI.P.H.RIYAS**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER-1 (WC),
COMMERCIAL TAXES, MINI CIVIL STATION,
PATHANAMTHITTA - 689 645.**
- 2. THE STATE OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001,
REPRESENTED BY ITS SECRETARY TO TAXES.**

BY GOVERNMENT PLEADER SRI.R.RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : TRUE COPY OF THE WORK ORDER DATED 26.4.14 ISSUED BY THE
AWARDER TO PETITIONER.
- EXT. P2 : TRUE COPY WORKS CONTRACT AGREEMENT DATED 15.8.14
EXECUTED BETWEEN PETITIONER.
- EXT. P3 : TRUE COPY OF INVOICE NO.047 DATED 15.11.14 AND FORM 8F
DECLARATION IN RESPECT PIT-PROPPING EQUIPMENT
TRANSPORTED FROM CHENNAI TO VADASSERIKKARA.
- EXT. P4 : TRUE COPY OF FORM 15 DEPARTMENTAL DELIVERY NOTES
DATED 25.6.15 AND FORM 8F DECLARATION FROM USED TO
TRANSPORT WORKING TOOLS, EQUIPMENTS & PILING SHEETS
FROM CHENNI TO VADASSERIKKARA.
- EXT. P5 : TRUE COPY OF ANNUAL RETURN FOR THE YEAR 2014-15 E-FILED BY
PETITIONER.
- EXT. P6 : TRUE COPY OF NOTICE DATED 31.7.15 PROPOSING TO REVISE
COMPOUNDING RATE OF TAX FOR THE YEAR 2014-15 ISSUED BY
1ST RESPONDENT TO PETITIONER.
- EXT. P7 : TRUE COPY OF NOTICE DATED 31.7.15 PROPOSING TO REVISE
COMPOUNDING RATE OF TAX FOR THE YEAR 2015-16 ISSUED BY
1ST RESPONDENT TO PETITIONER.
- EXT. P8 : TRUE COPY OF REPLY DATED 13.8.15 FILED AGAINST EXT.P6 NOTICE
FOR 14-15 BY THE PETITIONER BEFORE 1ST RESPONDENT.
- EXT. P9 : TRUE COPY OF REPLY DATED 13.8.15 FILED AGAINST EXT.P7 NOTICE
FOR 15-16 BY THE PETITIONER BEFORE 1ST RESPONDENT.
- EXT. P10 : TRUE COPY OF CANCELLATION ORDER DATED 10.9.15 FOR THE YEAR
2014-15 ISSUED BY 1ST RESPONDENT TO THE PETITIONER.
- EXT. P11 : TRUE COPY OF CANCELLATION ORDER DATED 10.9.15 FOR THE YEAR
2015-16 ISSUED BY 1ST RESPONDENT TO THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.38351 of 2015
.....
Dated this the 17th day of December, 2015

J U D G M E N T

The challenge in the writ petition is against Exts.P10 and P11 orders passed by the 1st respondent cancelling the permission granted to the petitioner for payment of tax on compounded basis under Section 8 of the Kerala Value Added Tax Act. Although various contentions have been raised by the petitioner in the writ petition against Exts.P10 and P11 orders that are impugned in the writ petition, I find that against Exts.P10 and P11 orders, the petitioner has an effective alternate remedy by way of filing an appeal before the appellate authority under the Kerala Value Added Tax Act. Accordingly, I dismiss the writ petition in its challenge against Exts.P10 and P11 orders and issue the following directions:

- i. If the petitioner files an appeal against Exts.P10 and P11 orders before the appellate authority under the Kerala Value Added Tax Act within a period of one week from the date of

receipt of a copy of this judgment, then the appellate authority shall consider the appeal so preferred by the petitioner and pass appropriate orders thereon within a period of one month from the date of receipt of the appeal.

ii. The petitioner shall produce a copy of this writ petition along with a copy of this judgment before the appellate authority along with the appeal to be preferred based on this judgment.

**A.K.JAYASANKARAN NAMBIAR
JUDGE**