IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

WP(C).No. 38798 of 2015 (Y)

PETITIONER:

JUPITOR INTERNATIONAL LTD.
CC NO.39/3915-A, GROUND FLOOR
PATTOOR CHAMBERS, ALAPPAT CROSS ROAD
RAVIPURAM, KOCHI-682 016
REPRESENTED BY SRI. MANOJ. V.S., BRANCH MANAGER.

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

RESPONDENTS:
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1. **ASSISTANT COMMISSIONER**
   SPECIAL CIRCLE-III, COMMERCIAL TAXES
   ERNAKULAM-682 015.

2. **DEPUTY COMMISSIONER**
   COMMERCIAL TAXES
   ERNAKULAM-682 015.

BY GOVERNMENT PLEADER SMT. K.T. LILLY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 38798 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS :-

EXT.P1	-	COPY OF THE APPELLATE ORDER IN KVATA 1696/2012 DATED 09.04.2014 ISSUED BY THE DEPUTY COMMISSIONER [APPEALS], COMMERCIAL TAXES, ERNAKULAM.
EXT.P2	-	COPY OF THE MODIFIED ASSESSMENT ORDER FOR 2007-08 DATED 20.05.2014 ISSUED BY THE 1ST RESPONDENT.
EXT.P3	-	COPY OF THE SHOW CAUSE NOTICE DATED 17.08.2015 ISSUED BY THE 1ST RESPONDENT.
EXT.P4	-	COPY OF REPLY DATED 19.09.2015 SUBMITTED BY THE 1ST RESPONDENT.
EXT.P5	-	COPY OF THE ASSESSMENT ORDER NO.32070400762/2012-13 DATED 30.11.2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS:- NIL

//TRUE COPY//

P.A. TO JUDGE

sp

K. VINOD CHANDRAN, J.

W.P(C). No.38798 of 2015

Dated this the 21st day of December, 2015.

JUDGMENT

The petitioner is aggrieved by Ext.P5 order of assessment. Admittedly, there is an available statutory remedy under the KVAT Act, 2003. The contention of the petitioner is that the issue raised at Ext.P5 is covered by an order produced at Ext.P1, the previous assessment year. Ext.P1 is an order of Deputy Commissioner (Appeals), Commercial Taxes, Ernakulam, wherein the issue of rate difference Memo was considered and held that there is no tax liability. However, it is to be noticed that, each assessment year gives rise to a separate cause of action and the assessing authority herein has also found that the dealer cannot prove that the difference in turn over is due to the rate difference, during the hearing.

In such circumstance, necessary factual details have to be gone into and this Court cannot exercise jurisdiction under Article 226 of the Constitution of India to ferret out such details. It is only appropriate that the petitioner be relegated to the appellate remedy as available under the statute.

The writ petition would stand dismissed *in limine*, however leaving open all the contentions of the petitioner to be urged before the other appropriate forum.

Sd/-
K. VINOD CHANDRAN,
JUDGE.

//True Copy//
P.A. to Judge.

sp/21/12/15