

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

WP(C).No. 39342 of 2015 (P)

PETITIONER :

**RINTO N.R.,
ALU GLAZE CLADDING AND GLAZING
NJERINJAMPILLY HOUSE
VELLARAMPADAM, MUPLIYAM
THRISSUR – 680 312.**

BY ADV. SRI.JOSE JOSEPH

RESPONDENT(S) :

- 1. THE COMMERCIAL TAX OFFICER (WORKS CONTRACT)
OFFICE OF THE DEPUTY COMMISSIONER
COMMERCIAL TAXES, THRISSUR – 680 004.**
- 2. THE COMMISSIONER OF COMMERCIAL TAXES
TAX TOWER, KARAMANA
THIRUVANANTHAPURAM – 695 002.**

R1 & R2 BY GOVT. PLEADER SMT. LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 39342 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF ORDER NO. C3/23011/13/CT OF THE AUTHORITY FOR
CLARIFICATION DATED 27.11.2013.
- EXT.P2 COPY OF ORDER NO. 32081689653/09-10 OF THE IST RESPONDENT
DATED 28.10.2015.
- EXT.P3 COPY OF ORDER NO. 32081689653/10-11 OF THE IST RESPONDENT
DATED 28.10.2015.
- EXT.P4 COPY OF ORDER NO. 32081689653/11-12 OF THE IST RESPONDENT
DATED 28.10.2015.
- EXT.P5 COPY OF ORDER NO. 32081689653/12-13 OF THE IST RESPONDENT
DATED 28.10.2015.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.39342 of 2015

Dated this the 23rd day of December 2015

JUDGMENT

The challenge in the writ petition is against Exts.P2 to P5 orders of assessment, passed in relation to the petitioner under the Kerala Value Added Tax Act, for the assessment years 2009-10 to 2012-13. The grievance of the petitioner against Exts.P2 to P5 assessment orders is essentially that the said orders were passed without hearing the petitioner, and without noticing that the issue involved was covered in favour of the petitioner by subsequent decisions of the Supreme Court.

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

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find that in Exts.P2 to P5 orders, there is no reference to any of hearing, that was afforded to the petitioner prior to the passing of the said orders. I find force in the contention of the petitioner that if he was given an opportunity of hearing, he could have brought to the

notice of the 1st respondent the subsequent decisions rendered by the Supreme Court which, according to the petitioner, would have settled the issue in his favour. I, therefore, quash Exts.P2 to P5 orders and direct the 1st respondent to pass fresh order in the matter, after hearing the petitioner and considering the decisions relied upon by the petitioner to substantiate his contention on merits. 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 06.01.2016. The 1st respondent shall pass fresh orders as directed, within a period of one month thereafter. I make it clear that it is open to the petitioner to raise all issues, including the issue of jurisdiction, before the 1st respondent, at the time of hearing.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/