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. 39562 OF 2015 (U)

PETITIONER(S):

M/S AJWA CATERING
PANAVILA JUNCTION, THIRUVANANTHAPURAM, PINCODE 695014
THIRUVANANTHAPURAM DISTRICT
REPRESENTED BY ITS PARTNER SRI.MUHAMED NAUSHAD

BY ADVS.SRI.U.BALAGANGADHARAN
SRI.V.JAYANANDAKUMAR

RESPONDENT(S):
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1. THE COMMERCIAL TAX OFFICER
FIRST CIRCLE, THIRUVANANTHAPURAM, 695002
THIRUVANANTHAPURAM DISTRICT

2. STATE OF KERALA REPRESENTED BY SECRETARY (TAXES)
THIRUVANANTHAPURAM

BY GOVERNMENT 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:

WP(C).NO. 39562 OF 2015 (U)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: A TRUE COPY OF THE ANNUAL RETURN FOR THE YEAR 2013-14 SUBMITTED TO FIRST RESPONDENT DATED 17/06/2014

EXT.P2: A TRUE COPY OF THE NOTICE DATED 8/9/2015 ISSUED UNDER SECTION 25(1) OF THE ACT BY THE FIRST RESPONDENT

EXT.P3:A TRUE COPY OF THE ORDER DATED 30/09/2015 ISSUED BY THE 1ST RESPONDENT

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.39562 of 2015

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Dated this the 23rd day of December, 2015

<u>J U D G M E N T</u>

The challenge in the writ petition is against Ext.P3 order of assessment passed in relation to the petitioner under the Kerala Value Added Tax Act for the assessment year 2013-2014. The grievance of the petitioner in the writ petition is essentially that Ext.P3 order was passed without hearing him, and on a date prior to the date fixed for personal appearance of the petitioner for hearing.

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

3. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I find from Ext.P3 order that the pre-assessment notice was served on the dealer on 18.09.2015 and the petitioner was granted 15 days time to respond the same. Ext.P3 order, however, is dated 13.09.2015,

and therefore, prior to the expiry of the 15 day period that was granted for the appearance of the petitioner. Under the circumstances, I am of the view that Ext.P3 order is vitiated by a non-compliance with the rules of natural justice. I therefore quash Ext.P3 order and direct the 1^{st} respondent to pass fresh orders of assessment in relation to the petitioner for the assessment year 2013-2014 after hearing the petitioner. To enable the 1^{st} respondent to do so, I direct the petitioner to appear before the 1^{st} respondent at his office at 11 a.m on 06.01.2016. The 1^{st} respondent shall pass fresh orders as directed within a month thereafter.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/23.12.15