

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

FRIDAY, THE 31ST DAY OF MAY 2019 / 10TH JYAISHTA, 1941

WP(C).No. 15000 of 2019

PETITIONER:

JOSE KUNJAPPA  
AGED 64 YEARS  
PROPRIETOR LITTLE FLOWER BOOKSTALL, COLLEGE ROAD,  
THRISSUR - 680 001.

BY ADV. SRI.PHILIP M.VARUGHESE

RESPONDENT:

THE STATE TAX OFFICER  
STATE GOODS AND SERVICE TAX DEPARTMENT, FIRST CIRCLE,  
SGST COMPLEX, POOTHOLE, THRISSUR - 680 004.

GP. DR. THUSHARA JAMES.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
31.05.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## **JUDGMENT**

Heard Sri.Philip M.Varughese, the learned counsel for the petitioner and Dr.Thusahra James, the learned Government Pleader.

2. The petitioner challenges Exts.P1 and P2 as completely illegal and particularly violative of principles of natural justice. The counsel for the petitioner has challenged Exts.P1 and P2 firstly by contending that Exts.P1 and P2 are violative of principles of natural justice and fair play.

3. The case of petitioner is that Ext.P1 notice under Section 25(1) of KVAT Act, 2003 is dated 01.03.2019. The petitioner is called upon through the said notice to appear before the respondent at 11.00 am on 15.02.2019. The notice is stated to have been received by the petitioner on 07.03.2019. The order Ext.P2 is dated 18.03.2019. The reference to date of appearance at 11.00 am on 15.02.2019 in Ext.P1, even if agreed as a typographical error, still the petitioner contends that Ext.P2 order is passed even before expiry of 15 days' time granted to

petitioner in Ext.P1. The petitioner therefore prays for setting aside Exts.P1 and P2.

4. The learned Government Pleader tries to justify Ext.P2 by contending that the petitioner received Ext.P1 on 07.03.2019. The petitioner did not choose to file reply till 18.03.2019. According to Dr.Thushara James the objection now pointed out is more an objection taken at convenience but there is no substantive contention and she prays for dismissing the writ petition.

5. The contention of the respondent is merely noted to be rejected without much deliberations, for in the considered view of this Court even assuming that date of hearing mentioned in Ext.P1 as 15.02.2019 is an error, either human or typographical, still passing the order within fifteen days from 07.03.2019 is illegal, arbitrary and unsustainable. Ext.P2 refers to acknowledgement of Ext.P1 by the petitioner on 07.03.2019, that being the case the respondent ought to have waited for fifteen days before decision in Ext.P1 is taken. For the aforesaid reasons and in the result Ext.P2 is liable to be set aside and accordingly set aside.

6. The writ petition ordered. Ext.P2 impugned in the writ petition is set aside. Petitioner appears before the respondent accompanied by a copy of this judgment on 18.06.2019 together with the reply and the documents on which the petitioner intends to rely in this behalf. The respondent gives a date for hearing and completes assessment expeditiously.

Sd/-

**S . V . BHATTI**

**JUDGE**

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## **APPENDIX**

### **PETITIONER'S EXHIBITS:**

EXHIBIT P1                      A TRUE COPY OF THE NOTICE ISSUED BY THE  
RESPONDENT DATED 01.03.2019.

EXHIBIT P2                      A TRUE COPY OF ORDER PASSED BY THE  
RESPONDENT DATED 18.03.2019.

RESPONDENT'S EXHIBITS: NIL