

(2010) 06 KL CK 0106

High Court Of Kerala

Case No: Writ Petition (C) No. 17780 of 2010 (V)

Nabeesa

APPELLANT

Vs

The Fast Track Adalath Team No.
V, The Commercial Tax Officer
and The Deputy Tahasildar

RESPONDENT

Date of Decision: June 9, 2010

Acts Referred:

- Kerala General Sales Tax Act, 1963 - Section 17D

Hon'ble Judges: P.R. Ramachandra Menon, J

Bench: Single Bench

Advocate: S. Santhosh Kumar, for the Appellant; No Appearance, for the Respondent

Judgement

P.R. Ramachandra Menon, J.

The petitioner is challenging the correctness and sustainability of Ext. P3 stated as finalised by the first respondent/Fast Track Team u/s 17D of the KGST Act.

2. The learned Counsel for the petitioner submits that the course and proceedings pursued by the first respondent are per se wrong and illegal, being contrary to the relevant provisions of law and binding judicial precedents. It is also brought to the notice of this Court that the impugned order passed by the first respondent was in the name of a person who was no more, which by itself makes the same null and void in all respects.

3. Heard the learned Government Pleader as well.

4. It is evident from Ext. P3 order passed by the first respondent that the notice issued to the assessee was returned with the postal endorsement that the "addressee expired". This was a notice with regard to the production of documents. In the next paragraph of the said order it is stated that pre-assessment notice has been issued to the dealer. By the decision in Hindustan Petroleum Corporation Ltd. v. Asst. Commissioner Commercial Taxes, Ernakulam 2009 (4) KHC 819 this Court

has explained the course and procedure to be followed while finalising the proceedings u/s 17D of the KGST Act.

5. Going by the materials on record, this Court does not require any second thought to hold that the matter requires to be re-considered. Accordingly, the first respondent or such other authority, as the case may be, is directed to finalise the assessment afresh, in accordance with the relevant provisions of law, and also in the light of the observations made by this Court in the decision cited supra, after giving notice to the legal heirs of the assessee. This shall be finalised as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a copy of the judgment. The petitioner shall produce the particulars of the legal heirs before the second respondent within two weeks from the date of receipt of a copy of the judgment. Till the matter is finalised as above, all further proceedings pursuant to Ext. P2 against the sureties shall be kept in abeyance.

The Writ Petition is disposed of.