

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937**

**WP(C).No. 7510 of 2015 (K)**  
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**PETITIONER(S):**  
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**KRISHNAN KUTTY KADAMBIL,  
INN STYLE, NEAR GOVERNMENT HOSPITAL BUILDING,  
NO.XVII/36, KUHUPARAMBA, KANNUR-670 643.**

**BY ADVS.DR.K.P.PRADEEP  
SRI.T.T.BIJU  
SRI.K.P.KESAVAN NAIR  
SMT.T.THASMI**

**RESPONDENT(S):**  
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- 1. STATE OF KERALA  
REPRESENTED BY ITS PRINCIPAL SECRETARY TO TAXES  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. COMMISSIONER OF COMMERCIAL TAXES  
DEPARTMENT OF COMMERCIAL TAXES, GOVERNMENT OF KERALA  
TAX TOWERS, KARAMANA, THIRUVANANTHAPURAM-695 002.**
- 3. COMMERCIAL TAX OFFICER  
DEPARTMENT OF COMMERCIAL TAXES, KUTHUPARAMBA  
KANNUR-670 643.**

**BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**PJ**

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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- EXT.P1. TRUE COPY OF THE COVERING LETTER SUBMITTED FOR  
SURRENDERING REGISTRATION CERTIFICATE NO. PIN-32441261210P  
BY THE PETITIONER TO THE 3RD RESPONDENT
- EXT.P2. TRUE COPY OF THE PROFESSIONAL TAX RECEIPT NO.88708 DATED  
19/9/2014 ISSUED BY THE SECRETARY, KUTHUPARAMBA  
MUNICIPALITY, KANNUR DISTRICT.
- EXT.P3. TRUE COPY OF THE RECEIPT NO.55 FOR JANUARY-DECEMBER 2014,  
ISSUED BY M.A.FAHMIDA, TO THE PETITIONER
- EXT.P4. TRUE COPY OF THE RENT RECEIPT NO.86 FOR JANUARY-  
DECEMBER 2015, ISSUED BY M.A.FAHMIDA, TO THE PETITIONER
- EXT.P5. TRUE COPY OF THE LEASE DEED DATED 23/10/1991 ISSUED BY  
AYISUMMA TO THE PETITIONER
- EXT.P6. TRUE COPY OF THE NOTICE DATED 5/3/1997 ISSUED BY AYISUMMA  
TO THE PETITIONER
- EXT.P7. TRUE COPY OF THE CONSENT LETTER SUBMITTED BY FAHMIDA  
M.A.TO THE 3RD RESPONDENT
- EXT.P8. TRUE COPY OF THE NOTICE NO.A-354/2015 DATED 27/2/2015 ISSUED  
BY THE 3RD RESPONDENT TO THE PETITIONER REJECTING HIS  
APPLICATION FOR REGISTRATION DATED 11/2/2015.
- EXT.P9. TRUE COPY OF THE CIRCULAR NO.10/2006 DATED 28/2/2006 ISSUED BY  
THE 2ND RESPONDENT

**RESPONDENT(S)' EXHIBITS**  
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NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

**A.K.JAYASANKARAN NAMBIAR, J.**  
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**W.P.(C). No. 7510 of 2015**  
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**Dated this the 23<sup>rd</sup> day of March, 2015**

**JUDGMENT**

The challenge in the writ petition is against Ext.P8 notice that was served on the petitioner by the 3<sup>rd</sup> respondent. The said notice was issued to the petitioner pursuant to an application, that was preferred by the petitioner for registration under the Kerala Value Added Tax Act, hereinafter referred to as 'KVAT Act'. In Ext.P8 notice, the 3<sup>rd</sup> respondent has directed the petitioner to furnish documents to support his application for registration within a stipulated time, failing which, it is informed that the registration application will be rejected.

2. The learned counsel for the petitioner would submit that, while he had approached the 3<sup>rd</sup> respondent, after submitting an application, he was informed by the 3<sup>rd</sup> respondent that he would have to support his application with a valid lease deed for the purpose of proving that the premises, in which he is proposing to conduct business, is on a valid lease from the owner of the premises. The contention of the petitioner is that he is holding over the premises, based on a lease that was granted by the erstwhile owner, who is the mother of the present owner of the building and inasmuch as he is continuing to occupy the premises based on a

statutory tenancy as recognized in law, it is not possible for him to get a fresh lease deed to cover the year in question.

3. I have heard the learned counsel appearing for the petitioner and the learned Government Pleader appearing for the respondent as well.

4. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that Ext.P8 is only a notice that is issued to the petitioner asking him to produce documents to support his application for registration. Taking note of the apprehension of the petitioner that the 3<sup>rd</sup> respondent will not accept any document, other than a lease deed, to consider the case of the petitioner, that he is carrying on the business in leased premises, I direct the 3<sup>rd</sup> respondent to consider the application submitted by the petitioner, after taking note of the materials produced by the petitioner to substantiate his contentions with regard to the application submitted by him. The 3<sup>rd</sup> respondent will also have to take note of the law governing the lease of premises, inasmuch as it is the petitioner's contention that he is continuing in the premises as a statutory tenant and not

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pursuant to a fresh lease deed, that has been executed by the present owner, in favour of the petitioner. The 3<sup>rd</sup> respondent is directed to pass orders on the application submitted by the petitioner, within a period of three weeks from the date of receipt of a copy of this judgment. To enable the 3<sup>rd</sup> respondent to do so, I direct the petitioner to appear before the 3<sup>rd</sup> respondent, at 11 AM on 30.03.2015 with all documents to support his application.

The writ petition is disposed as above.

Sd/-  
**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

das