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**(2009) 08 KL CK 0014**

**In the High Court Of Kerala**

**Case No :** Writ Petition (C) No. 23460 of 2009 (B)

Wilson Joseph APPELLANT

Vs

Commercial Tax Officer and Others RESPONDENT

**Date of Decision :** 17-08-2009

**Acts Referred:**

Kerala General Sales Tax Act, 1963 — Section 17D, 9(2)

**Citation :** (2011) 42 VST 173

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

**Bench :** Single Bench

**Advocate :** Bobby John and P.N. Damodaran Namboodiri, for the Appellant; C.K. Gomndan, Government Pleader, for the Respondent

**Final Decision :** Dismissed

## Judgement

P.R. Ramachandra Menon, J.—The Petitioner is challenging the sustainability of exhibits P4 and P5 assessment proceedings finalized by the "fast track team" invoking the provisions u/s 17D of the Kerala General Sales Tax Act, 1963. The main point of challenge is that, the fast track assessment as contemplated u/s 17D of the Act is only in respect of an assessment pending under the "the KGST Act" and not in relation to "the CST Act". In the instant case, the learned Counsel for the Petitioner submits that, the proceedings are obviously in respect of the CST assessment and hence there is absolutely no power, competence or jurisdiction for the second Respondent for having passed exhibits P4 and P5 orders; which hence are impugned in the present writ petition.

2. Heard the learned Government Pleader as well, who submits with specific reference to Section 9(2) of the CST Act that the idea and understanding of the Petitioner, as to the relevant provisions of law and the scope of assessment are quite wrong and misconceived. This Court finds that the learned Government Pleader is fully justified in making the said submission and the legal position is crystal clear. This Court does not find any reason to interfere with the impugned order and the remedy of the Petitioner, if aggrieved with regard to the fixation of

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the facts and figures, lies elsewhere.

3. The writ petition fails and it is dismissed without prejudice to the rights of the Petitioner to pursue such statutory remedy, if so advised.

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