



2023:KER:77892

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

FRIDAY, THE 8TH DAY OF DECEMBER 2023 / 17TH AGRAHAYANA, 1945

WP(C) NO. 41219 OF 2023

PETITIONER/S:

CHUKKATH KRISHNAN PRAVEEN, AGED 45 YEARS
S/O.C.M.KRISHNAN, CHUKKATHU HOUSE, MULAYAM.P.O.,
VALAKKAVU, MULAYAM VILLAGE, THRISSUR TALUK, THRISSUR -
680751 (PROPRIETOR OF HI RANGE IRRIGATIONS, MULAYAM,
THRISSUR, PIN - 680751

BY ADVS.
LINDONS C.DAVIS
E.U.DHANYA
RAJITH DAVIS
N.S.SHAMILA
CHINJU P. JOYIES

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT,
FINANCE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695001
- 2 DEPUTY COMMISSIONER,
OFFICE OF THE DEPUTY COMMISSIONER, TAX PAYER SERVICES
DIVISION - WADAKKANCHERY, STATE GOODS AND SERVICE TAX
DEPARTMENT, POOTHOLE, THRISSUR, PIN - 680004
- 3 STATE TAX OFFICER,
OFFICE OF THE STATE TAX OFFICER, TAX PAYER SERVICES CIRCLE,
MANNUTHY, KERALA STATE GOODS AND SERVICES TAX
DEPARTMENT, STATE GOODS AND SERVICES DEPARTMENT,
POOTHOLE, THRISSUR, PIN - 680004



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- 4 ASSISTANT STATE TAX OFFICER,
OFFICE OF THE STATE TAX OFFICER, TAX PAYER SERVICES CIRCLE,
MANNUTHY, KERALA STATE GOODS AND SERVICES TAX
DEPARTMENT, STATE GOODS AND SERVICES DEPARTMENT,
POOTHOLE, THRISSUR, PIN - 680004

- 5 CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS,
REPRESENTED BY COMMISSIONER, CENTRAL TAX, CENTRAL EXCISE
AND CUSTOMS CENTRAL REVENUE BUILDING, I.S.PRESS ROAD,
KOCHI, PIN - 682018

OTHER PRESENT:

JASMNE M.M.-GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08.12.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



J U D G M E N T

Heard Ms N S Shamila learned Counsel for the petitioner, and Ms Jasmin M M learned Government Pleader for the parties.

2. The present writ petition under Article 226 of the Constitution of India has been filed by the petitioner, a registered dealer under the provisions of the KVAT Act and now under the provisions of the CGST/SGST Act, for the following prayers:

- “i) To issue a Writ of mandamus or any other appropriate writ or order or direction directing respondents to permit the petitioner to rectify the mistake in Form GSTR-3B by accounting input tax credit as IGST instead of SGST and CGST credit.
- ii) To issue a Writ of mandamus or any other appropriate writ or order or direction directing the respondents to permit the petitioner to refund IGST Input tax credit and thereafter, adjust the same towards SGST and CGST liability;
- iii) To issue a Writ of mandamus or any other appropriate writ or order or direction directing the respondents to reconsider Exhibit.P3 or P6 by considering evidences produced by



petitioner, especially in the fact that, IGST credit and liability towards CGST and SGST are same;

iv) To issue a Writ of certiorari or any other appropriate writ or order or direction quashing Exhibts.P3 and P6 as unjust and illegal;

v) And to pass such other appropriate orders or directions as this Hon'ble Court deems fit and proper in the facts and circumstances of the case.

vi) To dispense with the production of translation of vernacular documents”

3. After some arguments, the learned Counsel for the petitioner submits that the petitioner committed some errors in submitting the returns in GSTR-3B, on the basis of which the assessment order in Ext.P3 has been passed. The petitioner has made a representation on 21.10.2023 in Ext.P4 for rectifying the mistakes/error which resulted in passing the impugned assessment order. She further submits that a direction may be given to the 3rd respondent to treat the representation as a rectification application and necessary orders be passed.



4. Ms Jasmin M M, learned Government Pleader does not have much objection to the said prayer of the petitioner.

5. In view thereof, the present writ petition is disposed of with a direction to the 3rd respondent to consider Ext.P4 and Ext.P5 as a rectification application filed by the petitioner/assessee and pass necessary orders expeditiously in accordance with the law, after giving an opportunity of hearing to the petitioner. The order should be passed on Exts.P4 and P5, preferably within a period of two months.

Sd/-

DINESH KUMAR SINGH

JUDGE



APPENDIX OF WP(C) 41219/2023

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE FORM GST ASMT-10 DATED
30.07.2020 ISSUED BY THE 3RD RESPONDENT
- Exhibit P2 A COPY OF THE FORM GST ASMT-11 DATED 13.11.2020
FILED BY THE PETITIONER
- Exhibit P3 A COPY OF THE ORDER DATED 21.8.2023 OF THE 4TH
RESPONDENT
- Exhibit P4 A COPY OF THE REPRESENTATION DATED 21.10.2023
SUBMITTED BEFORE THE 2ND RESPONDENT
- Exhibit P5 A COPY OF GOODS AND SERVICE TAX - TAX LIABILITIES
AND ITC COMPARISON ALONG WITH DETAILS OF BILLS
AS PER GSTR 2A
- Exhibit P6 A TRUE COPY OF THE LETTER NO.A4/1814 DATED
15.11.2023 ISSUED BY THE 2ND RESPONDENT
- Exhibit P7 A COPY OF THE JUDGMENT IN WRIT PETITION NO.2911
OF 2022 (T-RES) DATED 16.10.2022