

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

FRIDAY, THE 11TH DAY OF NOVEMBER 2022 / 20TH KARTHIKA, 1944

WP(C) NO. 29765 OF 2022

PETITIONER/S:

M/S. WESTERN OFFSHORE & MARINE PROJECTS PVT. LTD
AGED 39 YEARS
M/S. WESTERN OFFSHORE & MARINE PROJECTS PVT. LTD;
CC NO. 27/1172, KARTHIKA APARTMENTS,
PANAMPILLY NAGAR, COCHIN,
REPRESENTED BY ITS MANAGING DIRECTOR, SRI. HISHAM
BASHEER.
, PIN - 682036

BY ADV TOMSON T.EMMANUEL

RESPONDENT/S:

- 1 STATE TAX OFFICER
STATE GOODS AND SERVICES TAX DEPARTMENT,
1ST CIRCLE, ERNAKULAM, COCHIN,, PIN - 682018
- 2 STATE OF KERALA
STATE GOODS & SERVICE TAX DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM ,
REPRESENTED BY SECRETARY TO GOVERNMENT., PIN -
695001
- 3 COMMISSIONER (GST)
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE,
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS,
NEW DELHI., PIN - 110001
- 4 JOINT COMMISSIONER (APPEALS)
STATE GOODS AND SERVICES TAX DEPARTMENT,
ERNAKULAM, COCHIN., PIN - 682015

BY ADV R.HARISHANKAR

OTHER PRESENT:

ADV. THUSHARA JAMES (SR .GP)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 11.11.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

GOPINATH P., J

.....
W.P.(C).No. 29765 of 2022

.....
Dated this the 11th day of November, 2022

JUDGMENT

The petitioner has approached this Court challenging Ext.P4 order issued by the 1st respondent canceling the registration granted to the petitioner under the provisions of CGST/SGST Act. It is the case of the petitioner that the provisions of Section 29 r/w Rule 22 of the CGST/SGST Rules clearly indicate that the petitioner was entitled to a show cause notice before an order or cancellation is issued in terms of Section 29. The show cause notice is to be issued in Form REG-17 before cancellation of registration. It is a specific case of the petitioner that no such notice was issued and the only notice issued to the petitioner was one regarding the suspension of his registration in Form REG-31.

2. The learned Senior Government Pleader very fairly admits that a show cause notice in form REG-17 has not been issued to the petitioner. It is submitted that the necessary notice ought to have been automatically generated. However,

she submits that without standing on technicalities, the matter can be remitted to the 1st respondent for considering the case of the petitioner.

3. Having heard the learned counsel for the 3rd respondent also, this writ petition is allowed. Ext.P4 order is quashed. The matter is remitted to the 1st respondent to complete the proceedings against the petitioner in accordance with law. As a consequence of this order, the registration of the petitioner which was canceled by Ext.P4 order will stand restored till a fresh decision is taken by the 1st respondent.

It is make clear that the the quashing of Ext.P4 will not prevent the 1st respondent from initiating or continuing any proceedings for cancellation of registration against the petitioner, in accordance with law.

**Sd/-
GOPINATH P.
JUDGE**

Dxy

APPENDIX OF WP(C) 29765/2022

PETITIONER EXHIBITS

Exhibit P1 TRUE COPY OF REGISTRATION CERTIFICATE DATED 17.07.2018 ISSUED UNDER THE GST ACT.

Exhibit P1 (a) TRUE COPY OF CERTIFICATE OF RECOGNITION DATED 16.06.2022 ISSUED BY MINISTRY OF COMMERCIAL AND INDUSTRY, GOVERNMENT OF INDIA.

Exhibit P1 (b) TRUE COPY OF UDYOG AADHAAR MEMORANDUM ISSUED TO PETITIONER BY MINISTRY OF MICRO SMALL & MEDIUM ENTERPRISES, GOVERNMENT OF INDIA.

Exhibit P2 TRUE COPY OF GSTR-3B RETURN SUBMITTED UNDER THE GST ACT FOR THE MONTH OF FEBRUARY 2021.

Exhibit P3 TRUE COPY OF SHOW CAUSE NOTICE FOR CANCELATION OF REGISTRATION DATED 02.12.2021 ISSUED BY 1ST RESPONDENT.

Exhibit P4 TRUE COPY OF ORDER FOR CANCELATION OF REGISTRATION DATED 09.02.2022 ISSUED BY 1ST RESPONDENT.

Exhibit P5 TRUE COPY OF ONLINE APPEAL SUBMITTED BEFORE 4TH RESPONDENT, AGAINST EXT-P4 ORDER.

Exhibit P6 TRUE COPY OF MONTHLY RETURNS IN GSTR-3B SUBMITTED FOR THE PERIOD 01.03.2021 TO 31.01.2022.

Exhibit P7 TRUE COPY OF NOTICE DATED 28.08.2022 U/S.107(8) OF SGST ACT, AGAINST EXT-P5 APPEAL.

Exhibit P8 TRUE COPY OF FORM APL-02 DATED 15.09.2022 IN REJECTING EXT-P5 APPEAL SUBMITTED AGAINST EXT-P4 ORDER.

Exhibit P9

TRUE COPY OF PURCHASE ORDER DATED
13.08.2022 PLACED ON PETITIONER COMPANY
BY M/S.HINDUSTAN PETROLEUM CORPORATION
LTD;, PENDING EXECUTION.

Exhibit P10

TRUE COPY OF JUDGMENT DATED 08.03.2022
PASSED BY THE DIVISION BENCH OF THE
CALCUTTA HIGH COURT IN MAT 80 OF 2022.

