



2024:KER:21317

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

TUESDAY, THE 19TH DAY OF MARCH 2024 / 29TH PHALGUNA, 1945

WP(C) NO. 10787 OF 2024

PETITIONER/S:

A.M SAINUDHEEN
AGED 72 YEARS
NAJAMIA RUBBER TRADERS, IRAVON P.O, KONNI
PATHANAMTHITTA, PIN - 689691.

BY ADVS.
ESM.KABEER
C.SHEEBA

RESPONDENT/S:

- 1 THE COMMERCIAL TAX OFFICER -1
PATHANAMTHITTA, PIN - 689645
- 2 INSPECTING ASSISTANT COMMISSIONER COMMERCIAL TAX
FINANCIAL COMPLEX, 3RD FLOOR, MINI CIVIL
STATION, PATHANAMTHITTA, PIN - 689645
- 3 THE STATE TAX OFFICER (ARREAR RECOVERY)
2ND FLOOR, MINI CIVIL STATION, PATHANAMTHITTA,
PIN - 686964.

OTHER PRESENT:

SMT.JASMIN M.M.-GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 19.03.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



J U D G M E N T

Petitioner is an assessee under the provisions of the Central Goods and Services Tax Act/State Goods and Services Tax Act, 2017 having TIN No.3230498362. Show cause notice dated 28.10.2014, Ext.P1, was issued to the petitioner by the 2nd respondent demanding an amount of Rs.57,553/- in respect of the assessment years 2005-06 and 2008-09.

2. The petitioner challenged the said show cause notice before this Court by filing WP(C) No.30070/2014 and this Court vide Ext.P2 judgment and order dated 13.11.2014 disposed of the said writ petition directing the 1st respondent therein to consider and pass appropriate orders on the representation of the petitioner, in accordance with law, after giving an opportunity of hearing to the petitioner, at the earliest.

3. In pursuance to Ext.P2 judgment and order dated 13.11.2014 in WP(C) No.30070/2014, the



representation filed by the petitioner came to be decided vide Ext.P3 order and the competent authority determined the liability and interest at Rs.2,033/- and Rs.1,423/-, respectively.

4. Now, the petitioner has approached this Court in the present writ petition against the recovery notice dated 22.5.2023, Ext.P4, demanding arrears of tax of Rs.88,476/- for the years 2005-06, 2008-09 and 2012-13. The petitioner has represented against the said notice in Ext.P5 stating that the petitioner has already paid the arrears in respect of the assessment years 2005-06 and 2008-09 and that the excess amount paid by him may be refunded to him. Learned counsel for the petitioner submits that without taking into consideration the contention of the petitioner in Ext.P5, vide Ext.P6 order dated 24.1.2024, the petitioner's Bank account has been attached.

5. Considering the aforesaid fact, the present writ petition is allowed, the impugned order at Ext.P6 dated 24.1.2024 is set aside and



the matter is remanded back to the State Tax Officer, 3rd respondent herein, to consider the representation of the petitioner in Ext.P5 and pass fresh orders, in accordance with law, expeditiously. The petitioner is directed to appear before the 3rd respondent on 25.3.2024.

Pending interlocutory application, if any, in the present writ petition stands dismissed.

Sd/-
DINESH KUMAR SINGH
JUDGE

jg



WP (C) NO. 10787 OF 2024

APPENDIX OF WP(C) 10787/2024

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE DEMAND NOTICE DATED 28-10-2014 ISSUED BY THE 2ND RESPONDENT
- Exhibit P2 TRUE COPY OF THE JUDGMENT IN WP(C) NO.30070/2014 DATED 13-11-2014
- Exhibit P3 TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT DATED 05-02-2015
- Exhibit P4 TRUE COPY OF THE ARREAR NOTICE DATED 22-05-2023 ISSUED BY THE 3RD RESPONDENT
- Exhibit P4(a) TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P4
- Exhibit P5 TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE 3RD RESPONDENT DATED 12-06-2023
- Exhibit P6 TRUE COPY OF THE PROHIBITORY ORDER ISSUED BY THE 3RD RESPONDENT DATED 24-01-2024
- Exhibit P7 TRUE COPY OF THE COMMUNICATION ISSUED BY THE 3RD RESPONDENT TO THE BANK MANAGER DATED 24-01-2024
- Exhibit P8 TRUE COPY OF THE STATEMENT OF ACCOUNTS FOR THE PERIODS FROM 01-04-2023 TO 02-02-2024 ISSUED BY THE BANK