



2024/KER/58290

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

THURSDAY, THE 1ST DAY OF AUGUST 2024 / 10TH SRAVANA, 1946

WP(C) NO. 24950 OF 2024

PETITIONER:

GLOBAL DISTRIBUTORS,
10/82, NEAR KADUVETTY BRIDGE, SASTHAMANGALAM,
THIRUVANANTHAPURAM REPRESENTED BY R. RAJEEV KUMAR,
MANAGING PARTNER, PIN - 695 010.

BY ADVS.
PADMANATHAN K.V.
R.SREEJITH

RESPONDENTS:

- 1 THE ASSISTANT COMMISSIONER,
STATE GOODS AND SERVICES TAX DEPARTMENT, 2ND FLOOR,
TAX TOWER, KILLIPPALAM, KARAMANA P.O.,
THIRUVANANTHAPURAM, PIN - 695 002.
- 2 STATE TAX OFFICER,
COMMERCIAL TAX OFFICE, TAX TOWERS, KILLIPPALAM,
KARAMANA P.O., THIRUVANANTHAPURAM, PIN - 695 002.
- 3 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, TAXES DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695 001.

SMT.THUSHARA JAMES, SR.GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
01.08.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



JUDGMENT

The petitioner is aggrieved by Exts.P5 and P5(a) orders of assessment and Exts.P6 and P6(a) summary of orders for the year July 2017 and August 2017 under the CGST/ SGST Acts. It is the case of the petitioner that the registration of the petitioner had been cancelled on 12.12.2021 with effect from 30.11.2019 and the petitioner was therefore unaware of the orders passed and did not get an opportunity to file returns. The orders were uploaded on the portal, which had not been accessed by the petitioner since the registration had been cancelled and the petitioner was no longer continuing with the business. It is pointed out that the orders were issued on 13.09.2022 much after the registration of the petitioner was cancelled. It is submitted that the petitioner had conceded a Output Tax liability of approximately Rs.10 lakhs in the GSTR – 1 filed for July and August of 2017. It is submitted that since the assessment has now been completed to the best of judgment, the petitioner may be given an opportunity to appear before the officer and establish its case.

2. The learned Government Pleader vehemently



opposes the grant of any relief to the petitioner. It is submitted that if the petitioner was in any manner aggrieved by the orders issued in this case, it was for the petitioner to have availed statutory remedies under Section 107 of the CGST / SGST Acts. It is submitted that the contention of the petitioner that he was not accessing his portal cannot be accepted as it is settled law that the uploading of the orders on the portal is deemed to be sufficient for the purposes of the CGST / SGST Acts.

3. Having heard the learned counsel for the petitioner and the learned Government Pleader, I am of the opinion that the impugned orders can be set aside and the matter can be remitted to the file of the Jurisdictional Assessing Authority, namely the 1st respondent. I am inclined to do so taking into consideration the fact that the registration of the petitioner had been cancelled in the month of December 2021 and also taking into consideration the submission of the learned counsel for the petitioner that the petitioner had also stopped business thereafter. The impugned orders were issued only in the month of September 2022 and therefore, there is some in the merit in the



contention of the learned counsel for the petitioner that the petitioner was not aware of the orders as it was not checking its portal on a regular basis. However, the remand must be on condition as the petitioner admits in this Court that there is an Output Tax liability of approximately Rs.10 lakhs, which has not been paid so far. Therefore, this writ petition will stand ordered directing that if the petitioner remits a sum of Rs.10 lakhs towards the GST liabilities for the months of July and August of 2017, within a period two weeks from the date of receipt of a certified copy of this judgment, Exts.P5, P5(a), P6 and P6(a) orders will stand set aside and the matter will stand remanded to the files of the 1st respondent, who shall pass fresh orders, after affording an opportunity of hearing to the petitioner. If the petitioner does not remit the amount of Rs.10 lakhs as directed above within a period of two weeks, the petitioner will lose the benefit of this judgment.

The writ petition will stand disposed of accordingly.

Sd/-
GOPINATH P.
JUDGE

**APPENDIX OF WP(C) 24950/2024****PETITIONER EXHIBITS**

- Exhibit P1** COPY OF THE REGISTRATION CERTIFICATE OF THE PETITIONER, DATED 17.07 2018,
- Exhibit P2** TRUE COPY OF FORM GSTR-1 FOR THE MONTHS OF JULY AND AUGUST 2017 DTD. 11-1-2018
- Exhibit P2(a)** TRUE COPY OF FORM GSTR-1 FOR THE MONTHS OF JULY AND AUGUST 2017 DTD. 11-1-2018
- Exhibit P3** TRUE COPY OF THE NOTICE DTD. 02-09-2019 ISSUED BY THE 1ST RESPONDENT FOR THE MONTH OF JULY
- Exhibit P3(a)** TRUE COPY OF THE NOTICE DTD. 02-09-2019 ISSUED BY THE 1ST RESPONDENT FOR THE MONTH OF AUGUST
- Exhibit P4** COPY OF THE ORDER OF CANCELLATION OF REGISTRATION DTD. 12-12-2021 PASSED BY THE 2ND RESPONDENT
- Exhibit P5** TRUE COPY OF THE ASSESSMENT ORDERS DTD. 21-10-2019 PASSED BY THE 1ST RESPONDENT FOR THE MONTHS OF JULY AND AUGUST 2017
- Exhibit P5(a)** TRUE COPY OF THE ASSESSMENT ORDER DTD. 21-10-2019 PASSED BY THE 1ST RESPONDENT FOR THE MONTH OF AUGUST 2017
- Exhibit P6** TRUE COPY OF THE SUMMARY OF ORDER IN FORM DRC-07 DTD. 13-09-2022 PASSED BY THE 2ND RESPONDENT FOR THE MONTH OF JULY 2017
- Exhibit P6(a)** TRUE COPY OF THE SUMMARY OF ORDER IN FORM DRC-07 DTD. 13-09-2022 PASSED BY THE 2ND RESPONDENT FOR THE MONTH OF AUGUST 2017
- Exhibit P7** TRUE COPY OF THIS CIRCULAR DTD. 24-12-2019