



2024:KER:81987

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 5TH DAY OF NOVEMBER 2024 / 14TH KARTHIKA, 1946

WP(C) NO. 24271 OF 2024

PETITIONER/S:

MARIYA AGENCIES, IX/85-B, MUTTUCHIRA,
KADUTHURUTHY, KOTTAYAM, KERALA,
REPRESENTED BY ITS PROPRIETOR
SRI. TITTO JOSEPH, PIN - 686613

BY ADVS.
AJI V.DEV
KIRAN RAMACHANDRAN NAIR
ALAN PRIYADARSHI DEV
S.SAJEEVAN

RESPONDENT/S:

- 1 THE STATE TAX OFFICER, TAXPAYER SERVICES CIRCLE,
STATE G.S.T. DEPARTMENT, NEAR MAHADEVA TEMPLE,
VADAKKENADA, VAIKOM, KERALA, PIN - 686141
- 2 SUPERINTENDENT, CENTRAL TAX & CENTRAL EXCISE,
PALA RANGE, MAREENA TOWER, PALA, KATTAKKAYAM ROAD,
PALAI, KOTTAYAM, PIN - 686575
- 3 THE NODAL OFFICER FOR STATE GST,
STATE GOODS & SERVICE TAXES, TAX TOWER,
KILLIPPALAM, KARAMANA P.O.,
THIRUVANANTHAPURAM, PIN - 695002
- 4 THE NODAL OFFICER FOR CENTRAL GST,
GOODS & SERVICE TAXES, C.R. BUILDING,
I.S PRESS ROAD, KOCHI, PIN - 682018



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- 5 **GOODS AND SERVICES TAX NETWORK,
REPRESENTED BY ITS AUTHORISED OFFICER,
EAST WING, 4TH FLOOR, WORK MARK-1,
AEROCITY, NEW DELHI, PIN - 110037**

- 6 **UNION OF INDIA,
THROUGH ITS SECRETARY (REVENUE),
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE,
GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI, PIN -
110001**

BY ADV P.R.SREEJITH

SMT. JASMIN M M (GP)

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05.11.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



JUDGMENT

Petitioner is a registered entity under the CGST/SGST Acts, engaged in the supply of electrical goods. In the month of April, 2024, the petitioner, switched over from the Composition Scheme under Section 10 of the CGST/SGST Acts to Regular Scheme of tax payment under Section 9 of the CGST/SGST Acts. The petitioner attempted to upload FORM GST ITC-01 (Ext.P2) on the GST Portal in terms of the provisions contained in Section 18(1)(c) of the CGST/SGST Acts r/w. Rule 40(1)(b) of the GST Rules, 2017 to claim and avail input tax credit in respect of the opening stock as on 09.04.2024. In terms of the Composition Scheme, the petitioner was not in a position to avail input tax credit and therefore, on switching over to the normal Scheme, he was required to upload the input tax credit details in respect of the closing stock as on 09.04.2024. According to the petitioner, owing to glitches in the GST Portal, the petitioner was unable to upload Ext.P2 FORM . It is submitted that Ext.P3 screen shot will show that though the petitioner had attempted to upload Ext.P2 FORM, he was not able to do so. It is submitted that, finally, the petitioner raised a complaint with the GST Help Desk on the last date for filing of



Ext.P2 FORM and the same is also acknowledged, as can be seen from Ext.P4. It is submitted that since the petitioner could not upload the FORM owing to technical glitches, the petitioner may be given further opportunity to upload Ext.P2 FORM and claim ITC in respect of the closing stock as on 09.04.2024.

2. Heard the learned Standing Counsel appearing for the GST Network and the learned Government Pleader appearing for the State Tax Authorities.

3. Having heard the learned counsel appearing for the petitioner, the learned Standing Counsel and the learned Government Pleader, I am of the view that, in aforesaid facts and circumstances, the petitioner is to be given one more opportunity to upload Ext.P2 FORM and claim ITC in respect of the closing stock, as on 09.04.2024. It is clear from Ext.P3 that, after several attempts to upload Ext.P2 FORM, the petitioner raised a complaint with the GST Help Desk. It is also not disputed that , 08.05.2024 was the last day for the petitioner to upload Ext.P2 FORM and Ext.P3 shows that a complaint had been raised by the petitioner on 08.05.2024. That complaint of the petitioner has now been closed by Ext.P6 communication. Though it is the case of the learned Standing Counsel appearing



for the GST Network that the complaint raised was closed because the petitioner did not respond, the fact remains that even on the last day for uploading Ext.P2 FORM, the petitioner did not get a response regarding the technical glitches that he faced in uploading Ext.P2 FORM. I am therefore of the view that the writ petition can be disposed of, by permitting the petitioner one more opportunity to upload Ext.P2 FORM , if necessary by enabling the portal.

Accordingly, the writ petition will stand disposed of, directing that the petitioner shall be given one more opportunity to upload Ext.P2 FORM, if necessary, by enabling the Portal. The 5th respondent shall ensure that the portal is enabled for the purposes of filing Ext.P2 FORM. If the FORM is uploaded within one week from the date on which the Portal is enabled, any input tax credit due to the petitioner shall not be denied on account of the fact that Ext.P2 FORM was not filed on or before 08.05.2024.

Sd/-

GOPINATH P .

JUDGE



APPENDIX OF WP(C) 24271/2024

PETITIONER EXHIBITS

- Exhibit P1** TRUE COPY OF THE REGISTRATION CERTIFICATE
ISSUED TO THE PETITIONER DATED: 18-04-2018
- Exhibit P2** TRUE COPY OF THE FORM GST ITC-01 PREPARED BY
THE PETITIONER AS ON 09-04-2024
- Exhibit P3** TRUE COPY OF THE SCREEN SHOT (SHOWING ERROR
REPORT) DATED: 08-05-2024
- Exhibit P4** TRUE COPY OF THE E-MAIL COMMUNICATION
RECEIVED BY THE PETITIONER ON 08-05-2024
- Exhibit P5** TRUE COPY OF THE E-MAIL COMMUNICATION
RECEIVED BY THE PETITIONER DATED: 11-05-2024
- Exhibit P6** TRUE COPY OF THE E-MAIL COMMUNICATION
RECEIVED BY THE PETITIONER DATED:14-05-2024
- Exhibit P7** TRUE COPY OF THE JUDGMENT IN M/S. CHRIS
MOTORS VS. THE STATE TAX OFFICER & ORS (WPC
NO. 25951 OF 2020 DATED:15.06.2023)