



2024:KER:81277

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

FRIDAY, THE 1ST DAY OF NOVEMBER 2024 / 10TH KARTHIKA, 1946

WP(C) NO. 38367 OF 2024

PETITIONER:

ARAFA PLYWOOD AND VENEERS (REPRESENTED BY ITS
MANAGING PARTNER MOHAMMED SHAFI),
VP 11/354-A, ORNA ALLAPRA P.O., PERUMBAVOOR,
VENGOLA VILLAGE, ERNAKULAM, PIN - 683 556.

BY ADVS.

REGHUNATHAN V.G.
P.J.ANILKUMAR (A-1768)
K.A.ABDUL NISTAR

RESPONDENTS:

- 1 STATE TAX OFFICER,
TAX PAYER SERVICES CIRCLE- NATTIKA,
STATE GOODS & SERVICE TAX DEPARTMENT, POOTHOLE,
THRISSUR, PIN - 680 004.
- 2 STATE TAX OFFICER,
TAXPAYER SERVICE CIRCLE- KUNNATHUNADU,
STATE GOODS & SERVICE TAX DEPARTMENT, PERUMBAVOOR,
ERNAKULAM, PIN - 683 542.
- 3 COMMISSIONER OF STATE GOODS & SERVICE TAX
DEPARTMENT, TAX TOWER, 9TH FLOOR, KILLIPPALAM,
KARAMANA-P.O., THIRUVANANTHAPURAM, PIN - 695 002.
- 4 STATE OF KERALA REPRESENTED BY ADDITIONAL CHIEF
SECRETARY (TAXES), GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001.
- 5 CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS,
REPRESENTED BY ITS CHAIRMAN,
MINISTRY OF FINANCE, GOVERNMENT OF INDIA,
NORTH BLOCK, NEW DELHI, PIN - 110 001.



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6 UNION OF INDIA, REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE,
GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI,
PIN - 110 001.

BY ADVS.

JASMIN M M(GP),
V GIRISHKUMAR (SC)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01.11.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



JUDGMENT

The petitioner has been denied input tax credit in terms of the provisions contained in Section 16(2)(c) of the Central Goods and Services Tax/State Goods and Services Tax Acts, 2017 (CGST/SGST Acts). It is the case of the petitioner that if the petitioner is given the benefit of the Circulars referred to in paragraph No.101 of the judgment of this Court in ***M.Trade Links v. Union of India [2024 KLT OnLine 1624]*** , the petitioner will be entitled to input tax credit, which has now been denied to it by Exts.P2 and P3 orders.

2. The learned Government Pleader submits that Exts.P2 and P3 orders were passed on 24-04-2024 and the petitioner did not even file this writ petition within the period available for filing an appeal. It is submitted that a belated challenge has now been raised to Exts.P2 and P3, and such challenge should not be entertained.

3. Having heard the learned counsel for the petitioner, the learned Standing Counsel appearing for respondent No.5 and the learned Government Pleader and having regard to the directions issued by this Court in ***M.Trade Links (supra)***, I am of the view that one opportunity can be granted to the petitioner to prove its



claim in terms of the Circulars referred to in paragraph No.101 of the judgment of this Court in ***M.Trade Links (Supra)*** before the competent authority.

Accordingly, this writ petition will stand allowed by setting aside Exts.P2 and P3 orders to the extent it denies input tax credit on account of the provisions contained in Section 16(2)(c) of the CGST/SGST Acts and directing that the claim of the petitioner shall be considered in terms of the Circulars referred to in paragraph No.101 of the judgment of this Court in ***M.Trade Links (Supra)*** after affording an opportunity of hearing to an authorised representative of the petitioner. I make it clear that I have not expressed any opinion on the merits of the petitioner's claim and it will be open to the competent authority to pass fresh orders in accordance with the law.

**Sd/-
GOPINATH P.
JUDGE**

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APPENDIX OF WP(C) 38367/2024

PETITIONER'S EXHIBITS

- Exhibit-P 1** **TRUE COPY OF THE SHOW CAUSE NOTICE
BEARING REFERENCE NO.ZD321223008356W
DATED 7-12-2023 ISSUED BY THE 2ND
RESPONDENT.**
- Exhibit-P 2** **TRUE COPY OF THE ORDER U/S 73 BEARING
NO. OI0/TPS/TSR/CNTK/2024/22-STO DATED
24-4-2024 ISSUED BY THE 1ST RESPONDENT.**
- Exhibit-P 3** **TRUE COPY OF SUMMARY OF THE ORDER WITH
REFERENCE NO.ZD3204240249979 DATED
24.04.2024 ISSUED BY THE 2ND RESPONDENT.**
- Exhibit-P 4** **TRUE COPY OF THE DECLARATION ISSUED BY
THE SUPPLIER M/S. DREAMLINE TRADING
COMPANY, PERUMBAVOOR DATED 28.10.2024.**
- Exhibit-P 5** **TRUE COPY OF THE DECLARATION ISSUED BY
THE SUPPLIER M/S. MAMMOOS TRADERS,
PERUMBAVOOR DATED 20.10.2024.**
- Exhibit-P 6** **TRUE COPY OF THE JUDGMENT IN DISTRICT
NIRMITHI KENDRA VS SENIOR AUDIT OFFICER
& ORS, W P (C) 34809/2024 DATED
14-10-2024 .**