



2025:KER:17971

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS
TUESDAY, THE 4TH DAY OF MARCH 2025 / 13TH PHALGUNA, 1946
WP(C) NO. 8377 OF 2025

PETITIONER:

**FALCON SYNERGY ENGINEERING PRIVATE LIMITED
PULICHOTTIL, 153, ARAKUNNAM,
EDAKKATTUVAYAL, MULAMTHURUTHY,
ERNAKULAM, KERALA
(REPRESENTED BY THE MANAGING DIRECTOR
MR.THANKACHAN K.V, RESIDING AT KAVUMKATTAYIL
HOUSE, MULAKULAM NORTH, PIRAVOM,
ERNAKULAM, PIN - 686664**

**BY ADVS.
K.N.SREEKUMARAN
P.J.ANILKUMAR (A-1768)
LIJO VARGHESE**

RESPONDENTS:

- 1 ASSISTANT STATE TAX OFFICER
TAX PAYER SERVICE CIRCLE STATE GOODS & SERVICES
TAX DEPARTMENT, MINI CIVIL STATION,
TRIPUNITHURA, ERNAKULAM., PIN - 682301**
- 2 STATE TAX OFFICER
TAX PAYER SERVICE CIRCLE STATE GOODS & SERVICES
TAX DEPARTMENT, MINI CIVIL STATION,
TRIPUNITHURA, ERNAKULAM., PIN - 682301**
- 3 DEPUTY COMMISSIONER
TAX PAYER SERVICE CIRCLE STATE GOODS & SERVICES
TAX DEPARTMENT, TRIPUNITHURA., PIN - 682301**



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**BY ADV. JASMIN M.M.
GOVERNMENT PLEADER**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04.03.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



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BECHU KURIAN THOMAS, J.

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Dated this the 4th day of March, 2025

JUDGMENT

Petitioner challenges Exhibit-P7 order dated 08.08.2024 issued under Section 73(9) of the Central Goods and Services Tax Act/Kerala Goods and Services Tax Act, 2017.

2. In the proceedings related to the financial year 2019-20, noticing that there was excess input tax availed by the petitioner for the said year, a show cause notice was issued on 16.05.2024. However, there was no response from the petitioner's side, and thereafter, a reminder notice was issued on 24.06.2024, and again on 04.07.2024, and yet again on 22.07.2024. On all those occasions, petitioner failed to respond and did not avail the opportunity granted for a personal hearing. Thereafter, the State Tax Officer issued the impugned order.

3. Subsequently, petitioner claims to have filed a rectification petition on 29.01.2025, which was not apparently accepted by the authority. Petitioner challenges the impugned order of determination of tax, contending that they were not granted an opportunity of hearing and also that the excess input tax availment arose out of a clerical



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mistake, and if properly appreciated, no liability would arise. Petitioner asserts that the clerical mistake committed by its staff has resulted in the huge liability imposed upon it.

4. I have heard Sri. K. N. Sreekumaran, the learned counsel for the petitioner as well as Smt. Jasmin M. M., the learned Government Pleader.

5. On a perusal of the impugned order Exhibit-P7, it is evident that petitioner was given opportunities to respond in the form of a show cause notice followed by three reminders. Petitioner is a business establishment carrying on regular business activities. The show cause notice issued in 2024, even if it be only in the portal, is a mode of notice prescribed the statute. As a private limited company, petitioner cannot feign ignorance of such a notice or the reminder notices which were issued over a period of three months. In such circumstances, it cannot be stated that the petitioner was not granted an opportunity of hearing.

6. Failure to avail the opportunity granted is different from failure to grant an opportunity of hearing. In the instant case, petitioner cannot agitate that he was not granted an opportunity of hearing. If the opportunity was not availed by the petitioner, it is due to its own default. The blame cannot be put upon the respondents. Therefore, this Court is of the view that this is not a fit case to invoke the remedy



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under Article 226 of the Constitution of India.

Accordingly, I dismiss this writ petition, reserving the liberty of the petitioner to prefer statutory remedies, if available, in accordance with law.

Sd/-

**BECHU KURIAN THOMAS
JUDGE**

Jka/04.03.25.



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APPENDIX OF WP(C) 8377/2025

PETITIONER'S EXHIBITS

- | | |
|--------------------|--|
| Exhibit -P1 | TRUE COPY OF THE QUARTERLY RETURN IN FORM GSTR 1 FOR THE PERIOD FROM OCTOBER TO DECEMBER 2019 FILED BY THE PETITIONER ON 27.1.2020. |
| Exhibit-P2 | TRUE COPY OF THE MONTHLY RETURN IN FORM GSTR 3B FOR NOVEMBER 2019 FILED BY THE PETITIONER ON 17.1.2020. |
| Exhibit-P3 | TRUE COPY REPLY RECEIVED BY THE PETITIONER THROUGH MAIL FROM GST GRIEVANCE CELL ON 14.12.2019 |
| Exhibit-P4 | TRUE COPY OF THE RETURNS IN FORM GSTR 3B FOR DECEMBER 2019 FILED BY THE PETITIONER |
| Exhibit-P5 | TRUE COPY OF THE RETURN IN FORM GSTR 3B FOR JANUARY 2020 FILED BY THE PETITIONER |
| Exhibit-P6 | TRUE COPY OF THE SHOW CAUSE NOTICE IN FORM GSTR DRC 01 DATED 16.5.2024 ISSUED BY THE 1ST RESPONDENT |
| Exhibit-P7 | TRUE COPY OF THE ASSESSMENT ORDER AND SUMMARY OF ORDER IN DRC-07 UNDER REFERENCE NO.010/TPS/EKM/CTPTR/2024/207/ASTO DATED 8.8.2024 ISSUED BY THE 1ST RESPONDENT |
| Exhibit-P8 | TRUE COPIES OF THE RECONCILIATION STATEMENTS FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT |
| Exhibit-P9 | TRUE COPY OF THE JUDGMENT IN LALITH ELECTRICALS VS. ASSISTANT COMMISSIONER |



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**REPORTED IN (2024) SUPREME ONLINE (MAD)
17070**

Exhibit-P10

**TRUE COPY OF THE PETITION DATED
29.1.2025 PRESENTED BEFORE THE 1ST
RESPONDENT**

