



2026:KER:34508

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

TUESDAY, THE 19TH DAY OF MAY 2026 / 29TH VAISAKHA, 1948

WP(C) NO. 30190 OF 2025

PETITIONER/S:

MOOTHAVEETTIL ELVANA RAMESH KUMAR,
AGED 61 YEARS
S/O. SHEKARAN NAIR, PROPRIETOR SMART ENTERPRISES,
14/462 G2, UMMER PALACE, KURAIL LANE, CHEROOTY
ROAD, KOZHIKODE, PIN - 673032

BY ADVS.
SRI.R.JAIKRISHNA
KUM.NARAYANI HARIKRISHNAN
SRI.C.S.ARUN SHANKAR
SHRI.ANISH P.
SHRI.AKHIL SHAJI

RESPONDENT/S:

- 1 UNION OF INDIA,
THROUGH ITS SECRETARY (REVENUE), MINISTRY OF
FINANCE, DEPARTMENT OF REVENUE, GOVERNMENT OF
INDIA, NORTH BLOCK, NEW DELHI G.P.O., PIN - 110001
- 2 STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM G.P.O., THIRUVANANTHAPURAM, PIN
- 695001
- 3 GOODS AND SERVICES TAX NETWORK,
EAST WING 4TH FLOOR, WORLD MARK - I, AERO CITY,
NEW DELHI, REPRESENTED BY ITS-CHAIRMAN, PIN -
110037



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- 4 COMMISSIONER,
OFFICE OF THE COMMISSIONER, STATE GOODS AND
SERVICE TAX DEPARTMENT, JAWARHAR NAGAR COLONY,
ERANHIPALAM P.O., KOZHIKODE, PIN - 673006

- 5 STATE TAX OFFICER,
OFFICE OF THE STATE TAX OFFICER, TAX PAYER
SERVICE CIRCLE, KOZHIKODE CITY, STATE GST
DEPARTMENT, 1ST FLOOR JAWAHAR COLONY, ERANHIPALAM
P.O., KOZHIKODE, PIN - 673006

BY ADVS.
SMT.ANJU DIVAKAR, CGC
SHRI.P.R.SREEJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 19.05.2026, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



JUDGMENT

The petitioner is a registered taxpayer under the provisions of the CGST/SGST Act. The challenge raised in this writ petition is against Ext.P2 order passed by the 5th respondent under Section 73 of the KSGST Act 2017, pertaining to the assessment year, 2018-2019. The aforesaid order was passed in view of the fact that the petitioner mistakenly set off the eligible Input Tax Credit under the head of IGST and claimed it under the heads of CGST and SGST against the Output Tax Liability for the period from April 2018 to March 2019. The challenge is raised mainly on the ground that, the issue raised by the petitioner is decided in favour of the petitioner by a Division Bench of this Court in **Rejimon Padikapparambil Alex v. Union of India and Others** [2024 KHC OnLine 7215].

After hearing the learned counsel for the petitioner, the learned CGC for the 1st respondent and the learned Government Pleader for the respondents 2 to 5, I find that, as rightly pointed out by the learned counsel for the petitioner, the issue is indeed covered in favour of the petitioner as per Ext.P4 judgment



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rendered by the Division Bench of this Court.

In such circumstances, this writ petition is disposed of, quashing Ext.P2. However, it is clarified that, the respondent State may move the GST Council, in the light of the principles laid down in Ext.P4, to get the issue regarding the settlement of the amounts between the Departments resolved.

Sd/-

ZIYAD RAHMAN A.A.

JUDGE

rpk



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APPENDIX OF WP(C) NO. 30190 OF 2025

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE STATEMENT OF
COMPARISON OF GSTR 2A WITH GSTR3B FOR
THE YEAR 2018-2019
- Exhibit P2 A TRUE COPY OF THE ASSESSMENT ORDER
ISSUED BY THE 5TH RESPONDENT DATED
27.03.2024
- Exhibit P3 A TRUE COPY OF THE JUDGEMENT OF THIS
HON'BLE COURT IN WP(C) 35868 OF 2018
DATED 12.11.2018
- Exhibit P4 A TRUE COPY OF THE JUDGMENT OF THIS
HON'BLE COURT IN WA 54/2024 DATED
26.11.2024