

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

WEDNESDAY, THE 31ST DAY OF JULY 2024 / 9TH SRAVANA, 1946

WP(C) NO. 26839 OF 2024

PETITIONER:

KEY SYSTEMS,
CHOOLAYIL TOWERS, FINISHING POINT, THATHAMPALLI P.O,
ALAPPUZHA - 682 013, REPRESENTED BY ITS MANAGING
PARTNER, PIN - 682 013.
BY ADV A.KRISHNAN

RESPONDENTS:

- 1 STATE TAX OFFICER,
FIRST CIRCLE, STATE GOODS & SERVICE TAX DEPARTMENT,
COLLECTORATE, ALAPPUZHA, PIN - 688 001.
- 2 STATE TAX OFFICER,
(ARREAR RECOVERY)OFFICE OF JOINT COMMISSIONER, TAX PAYER
SERVICES, STATE GOODS & SERVICE TAX DEPARTMENT BSNL BHAVAN,
ALAPPUZHA, PIN - 688 001.
- 3 STATE OF KERALA,
REPRESENTED BY THE SECRETARY, STATE GOODS & SERVICE TAX
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.

SMT. JASMINE M M (GP)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner is a registered dealer under the CGST / SGST Acts. Ext.P1 is the Provisional Registration granted to the petitioner under the CGST / SGST Acts with Registration No.32AACFK4681K1Z9. It is the case of the petitioner that for certain purchases made by the petitioner from M/s.BSNL, the tax (GST) collected from the petitioner was remitted by the BSNL against the Provisional Registration Number and the benefit of Input Tax Credit has been denied to the petitioner on the ground that no such payment was made against the Permanent Registration Number of the petitioner, which is 32AACFK4681K2Z8. It is the case of the learned counsel for the petitioner that this aspect of the matter has not been considered in Ext.P4 order.

2. The learned Government Pleader refers to Ext.P4 order to contend that the credit was denied to the petitioner on account of the fact that no payment in respect of which the petitioner could claim Input Tax Credit was made against the Registration Number 32AACFK4681K2Z8. Specific reference is made to the finding in 2nd paragraph of internal page No.7 of Ext.P4 order .

Having heard the learned counsel for the petitioner and the

learned Government Pleader, I am of the view that the matter requires reconsideration at the hands of the 1st respondent. A reading of Ext.P4 order does not show that the 1st respondent had considered the contention of the petitioner that the payments in respect of which he was seeking the benefit of Input Tax Credit were actually payments which were reflected against the Provisional Registration granted to the petitioner under Registration Number 32AACFK4681K1Z9 and before the petitioner was granted the Permanent Registration Number - 32AACFK4681K2Z8. If the payments in respect of which the petitioner is claiming Input Tax Credit were actually paid against the Provisional Registration granted to the petitioner, I see no reason as to why such credit should be unavailable to the petitioner. In order to enable the 1st respondent to consider this matter, Ext.P4 order will stand set aside to the extent that it denies credit to the petitioner on account of the provisions contained in Section 16(2)(c) of the CGST / SGST Acts. The 1st respondent will consider the matter afresh, after taking note of the observations in this judgment.

Writ petition is disposed of accordingly.

Sd/-
GOPINATH P.
JUDGE

DK

APPENDIX OF WP(C) 26839/2024

PETITIONER EXHIBITS

- Exhibit P1** TRUE COPY OF THE PROVISIONAL REGISTRATION CERTIFICATE DATED 28.06.2017 WITH TYPED COPY
- Exhibit P2** TRUE COPY OF THE SHOW CAUSE NOTICE DATED 25.06.2022 NO. SCN 37/32AACFK4681K2Z8/2017-18, ACCOUNT OF DIFFERENCE IN THE GSTR 2A AND GSTR 3B RETURNS FOR THE PERIOD 01.04.2017 TO 31.03.2018
- Exhibit P2(a)** TRUE COPY OF THE REPLY TO EXT. P2 SUBMITTED BY THE PETITIONER DT. 2.8.2023
- Exhibit P3** TRUE COPY OF THE CERTIFICATE DATED 21.08.2023 FROM BSNL,
- Exhibit P3(a)** TRUE COPY OF THE CERTIFICATE DATED 13.09.2023, ISSUED BY THE AUDITOR OF THE PETITIONER
- Exhibit P4** TRUE COPY OF THE ORDER DATED 6.12.2023 ORDER NO.3/2023 DC TAXPAYER DIVISION ALAPPUZHA
- Exhibit P5** TRUE COPY OF THE RECOVERY NOTICE DATED 19.04.2024 FOR AMOUNT UNDER EXT.P4 ISSUED BY THE 2ND RESPONDENT NO.32AACFK4681K2Z8/2017-18
- Exhibit P6** TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT DATED 12.6.2024 IN W.P.(C)NO.42459 OF 2023