



2024:KER:7224

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 1ST DAY OF FEBRUARY 2024 / 12TH MAGHA, 1945

WP(C) NO. 3991 OF 2024

PETITIONER/S:

ADAM TRADERS,
818-2, PALA, KOTTAYAM, REPRESENTED BY ITS PROPRIETOR SRI.
ROBY ABRAHAM, PIN - 686575

BY ADVS.
AJI V.DEV
ALAN PRIYADARSHI DEV
S.SAJEEVAN

RESPONDENT/S:

- 1 THE DEPUTY COMMISSIONER,
TAXPAYER SERVICES DIVISION, STATE GST DEPARTMENT, MINI
CIVIL STATION, PALA, PIN - 686575
- 2 THE CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS,
REPRESENTED BY ITS CHAIRMAN, DEPARTMENT OF REVENUE,
NORTH BLOCK, NEW DELHI, PIN - 110001
- 3 THE GST COUNCIL THROUGH ITS CHAIRPERSON,
DEPARTMENT OF FINANCE, NORTH BLOCK, DELHI G.P.O., PIN -
110001
- 4 THE GOODS AND SERVICES TAX NETWORK,
EAST WING 4TH FLOOR, WORLD MARK - I AERO CITY, NEW DELHI
REPRESENTED BY ITS - CHAIRMAN,, PIN - 110037



2024:KER:7224

W.P.(C) No.3991/2024

-2-

- 5 THE STATE OF KERALA
REPRESENTED BY ITS SECRETARY, TAXES DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001

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

OTHER PRESENT:

JASMINE M.M.-GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
01.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



J U D G M E N T

Heard Mr K Ajiv Dev learned Counsel for the petitioner and Ms Jasmin M M learned Government Pleader for the State.

2. The present writ petition under Article 226 of the Constitution of India has been filed seeking the following reliefs:

- i. To call for the records leading to EXT.P.5 proceedings and P.5(a) summary thereof and quash the same by issuing a writ of certiorari or any other appropriate writ, direction or order;
- ii. To issue a writ of mandamus or any other writ or direction declaring that the returns filed by the petitioner in GSTR3B during the year 2017-18 were perfectly in order since there was no violation of the provisions contained in Section 16(2)[c] of the GST Acts as alleged in the impugned order;
- iii. Alternatively, to issue any appropriate writ, order or direction to the respondents permitting the petitioner to edit and upload actual entries in GSTR-3B for the period from



April, 2017 to March, 2018 so as to enable the petitioner to rectify the errors surfaced therein;

iv. Issue any other writ, direction or order found fit and proper by this Honorable Court on the facts and in the circumstances of this case;”

3. This Court is not an appellate authority against an assessment order passed under the provisions of the CGST/SGST Act. There is a specific provision of appeal under Section 107 of the CGST/SGST Act. In the exercise of the jurisdiction under Article 227 of the Constitution of India, the Constitutional Court can only examine whether the order is without jurisdiction or has any procedural impropriety or an error apparent on the face of the record.

3.1 I find none of the aforesaid conditions available in the present case. Therefore, I am of the considered view that the writ petition is wholly misconceived, which is hereby dismissed. However, the petitioner can avail any other



2024:KER:7224

W.P.(C) No.3991/2024

-5-

remedy as may be available to him against the impugned assessment order if so advised.

sd/-

DINESH KUMAR SINGH

JUDGE

jjj



APPENDIX OF WP(C) 3991/2024

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE SCRUTINY NOTICE ISSUED IN ASMT-10 DATED: 23.11.2020
- Exhibit P2 TRUE COPY OF THE REPLY FILED IN ASMT-11 DATED: 18.08.2021
- Exhibit P3 TRUE COPY OF THE REPLY FILED AGAINST THE SCN IN DRC-06 DATED: 27.12.2023
- Exhibit P4 TRUE COPY OF THE CERTIFICATE ISSUED BY THE CHARTERED ACCOUNTANT DATED: 24.12.2023
- Exhibit P5 TRUE COPY OF THE PROCEEDINGS PASSED U/S. 73 OF THE GST ACTS FOR THE YEAR 2017-18 DATED: 29.12.2023
- Exhibit P5(a) TRUE COPY OF THE SUMMERY OF THE ORDER ISSUED IN FORM GST DRC-07/DATED: 30.12.2023
- Exhibit P6 TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN C.K. PRAVEEN VS. STATE OF KERALA & ORS [WP(C) NO. 41219 OF 2023/08.12.2023]
- Exhibit P7 TRUE COPY OF THE JUDGMENT OF HON'BLE HIGH COURT OF KARNATAKA IN M/S ORIENT TRADERS VS. THE DEPUTY COMMISSIONER OF COMMERCIAL TAXES & ANR (WP NO.2911/16.12.2022)