

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

FRIDAY, THE 1<sup>ST</sup> DAY OF JULY 2022 / 10TH ASHADHA, 1944

WP(C) NO. 16388 OF 2022

**PETITIONER/S:**

K.P.SHANEEJ, AGED 52 YEARS, 719/11, PRIYAM, MAMBA,  
KAVINMOOLA, KANNUR DISTRICT, PIN - 670611  
BY ADV P.U.SHAILAJAN

**RESPONDENT/S:**

THE JOINT COMMISSIONER (APPEALS) I,  
ADDITIONAL CHARGE OF JOINT COMMISSIONER (APPEALS) II,  
STATE GOODS AND SERVICES TAX DEPARTMENT, KOZHIKODE,  
STATE GST COMPLEX, IIIRD FLOOR , JAWAHAR NAGAR COLONY,  
ERANHIPALAM (PO),  
KOZHIKODE, PIN - 673006  
BY ADV. GOVERNMENT PLEADER

ADV. DR. THUSHARA JAMES (SR. GP)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
01.07.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

Petitioner has approached this Court, being aggrieved by the fact that the appeals filed by the petitioner against Ext.P1(series) of orders of assessment have been rejected on the ground that they were filed beyond time.

2. Learned counsel appearing for the petitioner submits that the orders were communicated to the petitioner only on 18.01.2020 and the petitioner filed the appeals on 17.02.2020, within the prescribed time.

3. Learned Senior Government Pleader appearing for the respondents would contend that the orders were uploaded on the portal on 29.08.2019. It is pointed out that going by the provisions contained in the GST Act, the uploading of orders on the portal is sufficient communication to the assessee and therefore, the appellate authority had rightly rejected the appeals filed by the petitioner as being beyond time. It is submitted that the assessee has three months time to file the appeals and the appellate authority can condone any delay in filing the appeals for a further period of one month. It is submitted that considering the date of filing of the appeal, this

was even beyond the condonable period and therefore, the appellate authority had taken a correct decision. However, she very fairly submits that there are certain judgments of this Court which take the view that without the authenticated copy of the assessment order, an appeal cannot be filed and such authentication will be recognised by the system only when a demand is raised pursuant to the order of assessment. It is submitted that the demand in this case in Form DRC- 07 was uploaded only on 12.12.2019. It is submitted that if the date 12.12.2019 is taken as a relevant date for ascertaining the period of limitation, the appeals filed on 17.02.2020 were within the period of limitation. The judgment of this Court in **Jose Joseph V. Assistant Commissioner of Central Tax and Central Excise, Alappuzha, Additional Commissioner (Appeals), Kochi, The Union of India** [2022 (1) TMI 50] is brought to my notice.

4. Taking into consideration the aforesaid facts and taking note of the judgment in ***Jose Joseph (supra)***, I direct that if the appeals filed by the petitioner are within time, counting the period of limitation from 12.12.2019, the appeals shall be heard and decided on merits. The orders rejecting the

appeals filed by the petitioner will stand set aside to enable reconsideration of the matter as above, by the 1<sup>st</sup> respondent.

The writ petition is disposed of as above.

**sd/-**  
**GOPINATH P.**  
**JUDGE**

ajt

**APPENDIX OF WP(C) 16388/2022**

## PETITIONER EXHIBITS

- Exhibit p1 TRUE COPY OF THE DEMAND NOTICE AND ASSESSMENT ORDER WITH NO.ZJ3208190029551 DATED 29.8.2019 FOR THE PERIOD OCTOBER 2018 OF THE STATE TAX OFFICER, OFFICE OF THE STATE TAX OFFICER(WORKS CONTRACT), KANNUR
- Exhibit p1(a) TRUE COPY OF THE DEMAND NOTICE AND ASSESSMENT ORDER WITH NO.ZJ3208190028941 DATED 29.8.2019 FOR THE PERIOD NOVEMBER 2018 OF THE STATE TAX OFFICER, OFFICE OF THE STATE TAX OFFICER (WORKS CONTRACT), KANNUR
- Exhibit p1(b) TRUE COPY OF THE DEMAND NOTICE AND ASSESSMENT ORDER WITH NO.ZJ3208190029651 DATED 29.8.2019 FOR THE PERIOD DECEMBER 2018 OF THE STATE TAX OFFICER, OFFICE OF THE STATE TAX OFFICER (WORKS CONTRACT), KANNUR
- Exhibit p1(c) TRUE COPY OF THE DEMAND NOTICE AND ASSESSMENT ORDER WITH NO.ZJ3208190029661 DATED 29.8.2019 FOR THE PERIOD JANUARY 2019 OF THE STATE TAX OFFICER, OFFICE OF THE STATE TAX OFFICER (WORKS CONTRACT), KANNUR
- Exhibit p1(d) TRUE COPY OF THE DEMAND NOTICE AND ASSESSMENT ORDER WITH NO.ZJ3208190029731 DATED 29.8.2019 FOR THE PERIOD FEBRUARY 2019 OF THE STATE TAX OFFICER, OFFICE OF THE STATE TAX OFFICER (WORKS CONTRACT), KANNUR
- Exhibit p1(e) TRUE COPY OF THE DEMAND NOTICE AND ASSESSMENT ORDER WITH NO.ZJ320819002781 DATED 29.8.2019 FOR THE PERIOD MARCH 2019 OF THE STATE TAX OFFICER, OFFICE OF THE STATE TAX OFFICER (WORKS CONTRACT), KANNUR
- Exhibit p2 TRUE COPY OF THE COMMON ORDER DATED 29.12.2021 IN GSTA NOS.43/2020, 44/2020, 45/2020, 46/2020, 47/2020 AND 48/2020 OF THE RESPONDENT