



2023:KER:69029

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

**FRIDAY, THE 3<sup>RD</sup> DAY OF NOVEMBER 2023 / 12TH KARTHIKA, 1945**

**WP(C) NO. 21145 OF 2023**

**PETITIONERS:**

- 1 N.K JEEJU,  
AGED 54 YEARS  
S/O. LATE N. LAKSHMANAN, ESSAR CITY QUEEN, FLAT NO. IE,  
NARAYANA NAGARAM, VADAKARA, KOZHIKODE DISTRICT,  
PIN - 673 101.
- 2 N.K SHAIJU,  
AGED 51 YEARS  
S/O. LATE N. LAKSHMANAN, NARIKKALATHIL HOUSE,  
PALAYADNADA, VADAKARA, PIN - 673 521.

BY ADV BIJU ABRAHAM

**RESPONDENTS:**

- 1 THE DEPUTY COMMISSIONER STATE GOODS & SERVICE TAX  
DEPARTMENT,  
OFFICE OF THE DEPUTY COMMISSIONER, SPECIAL CIRCLE 2,  
KOZHIKODE, PIN - 673 631.
- 2 THE TAHSILDAR (RR),  
OFFICE OF THE TAHSILDAR, VADAKARA, MINI CIVIL STATION  
OLD BUILDING, KOZHIKODE DISTRICT, PIN - 673 101.
- 3 THE VILLAGE OFFICER PALAYAD,  
OFFICE OF THE VILLAGE OFFICER, PALAYAD, VADAKARA TALUK,  
KOZHIKODE DISTRICT, PIN - 673 521.
- 4 M/S. SREEKRISHNA INTERNATIONAL,  
NARAYANA NAGAR, OPP. NEW BUS STAND, VADAKARA, KOZHIKODE  
DISTRICT - 673101, REPRESENTED BY ITS MANAGING PARTNER  
BAIJU, S/O. N. LAKSHMANAN, , NARIKKALATHIL,  
PALAYADNADA, VADAKARA, KOZHIKODE DISTRICT,  
PIN - 673 521.



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5 BAIJU N.K,  
AGED 52 YEARS  
S/O. N. LAKSHMANAN, , NARIKKALATHIL, PALAYADNADA,  
VADAKARA, KOZHIKODE DISTRICT, PIN - 673 521.

6 LATHEESHA N.K,  
AGED 49 YEARS  
D/O. LAKSHMANAN,, MOOPIL HOUSE, MANGATTERY P.O.,  
THIRUR TALUK, MALAPPURAM, PIN - 676 105.

BY ADV ADVOCATE GENERAL OFFICE KERALA

**OTHER PRESENT:**

JASMINE M.M. -GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
03.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



**DINESH KUMAR SINGH, J.**

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**WP(C) NO. 21145 OF 2023**  
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**Dated this the 3<sup>rd</sup> day of November, 2023**

**J U D G M E N T**

1. The present writ petition has been filed by the petitioners impugning Ext.P4 to Ext.P7 revenue recovery notices in respect of arrears of Value Added Tax.

2. The arrears of tax are in respect of the financial years 2012-13 to 2018-19. The firm Sree Krishna International was incorporated by the partnership deed dated 28.07.2001. According to the petitioners, they retired from the firm with effect from 31.03.2009. The other brother and sister of the petitioners claimed exclusive right over the property covered under document No.2528/1996 of SRO Vadakara. Since the



petitioners retired from the partnership firm, they never received any notice nor the assessment order. It has also been stated that there has been litigation between the petitioners and respondents No.5 and 6 in respect of the property of the firm and so the matter got ultimate decision by judgment of this Court in Regular First Appeal No.201/2022 dated 12.01.2023.

3. The learned counsel for the petitioners therefore submits that the petitioners are not liable to pay the amount mentioned in Ext.P4 to Ext.P7 notices as they were not the partners of the firm Sree Krishna International and no liability can be passed upon them after they retired from the partnership firm. A prayer has been made by the petitioners for quashing of the revenue recovery notices Ext.P4 to Ext.P7.

4. A counter affidavit has been filed on



behalf of the State and it has been stated that as per Rule 5 (8) (b) of KGST Rules 1963, if a partner retires without the partnership being dissolved thereby he shall send to the registering authority a declaration in Form 3 within 30 days of his retirement, along with a copy of the deed of retirement. It is stated that the petitioners have never intimated or filed any declaration in Form 3 that they have retired from partnership firm of Sree Krishna International. It is further stated that under the KGST Act and Rules, the petitioners are still the partners of Sree Krishna International. The petitioners had not submitted any objection to the respondent.

5. Considering the fact that the question whether the partners had retired from the partnership firm or they were still the partners for which the assessment order has completed with



the revenue recovery notices have been issued. This Court would not like to dwell upon the disputed question of fact.

6. In view thereof, the present writ petition is disposed of with a direction to the petitioners to approach the assessing authority within a period of ten days from today for obtaining the certified copy of the assessment order and after obtaining the certified copy of the assessment order file an appeal before the appellate authority in accordance with the provisions of law. If the petitioners file the appeal against the assessment order before the appellate authority, the same shall be considered and decided in accordance with law expeditiously, without going into the question of limitation. For a period of one month, no coercive measures shall be taken against the petitioners in pursuance to the impugned Ext.P4 to



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Ext.P7 notices.

7. With the aforesaid directions, the present writ petition is disposed of.

**Sd/-  
DINESH KUMAR SINGH  
JUDGE**

rpr



**APPENDIX OF WP(C) 21145/2023**

PETITIONER'S EXHIBITS

- Exhibit1                    A TRUE COPY OF THE JUDGMENT IN O.S.  
NO.40/2019 ON THE FILES OF THE SUB-COURT,  
VADAKARA DATED 07-06-2022.
- Exhibit P2                 A TRUE COPY OF THE JUDGMENT BY THIS HON'BLE  
COURT DATED 12-01-2023.
- Exhibit P3                 A TRUE COPY OF THE TAX ASSESSMENT REPORT  
UNDER SECTION 44A B OF THE INCOME TAX ACT  
DATED 30-03-2018.
- Exhibit P4                 A TRUE COPY OF THE DEMAND NOTICE NO. RRC NO.  
2023/341/11 DATED 04-02-2023 OF THE 2ND  
RESPONDENT TO THE PETITIONERS UNDER RULE 7.
- Exhibit P5                 A TRUE COPY OF THE DEMAND NOTICE NO. RRC NO.  
2023/341/11 DATED 04-02-2023 OF THE 2ND  
RESPONDENT TO THE PETITIONERS UNDER RULE 34.
- Exhibit P6                 A TRUE COPY OF THE DEMAND NOTICE NO. RRC NO.  
2022/9140/11 DATED 04-02-2023 OF THE 2ND  
RESPONDENT TO THE PETITIONERS UNDER RULE 7.
- Exhibit P7                 A TRUE COPY OF THE DEMAND NOTICE NO. RRC NO.  
2022/9140/11 DATED 04-02-2023 OF THE 2ND  
RESPONDENT TO THE PETITIONER UNDER RULE 34.
- Exhibit P8                 A TRUE COPY OF THE OBJECTION SUBMITTED BY THE  
PETITIONERS BEFORE THE 1ST RESPONDENT DATED  
15-05-2023