IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

TUESDAY, THE 21ST DAY OF NOVEMBER 2023 / 30TH KARTHIKA, 1945

WP(C) NO. 25633 OF 2023

PETITIONER:

SHINE ABRAHAM,
PROPRIETOR, M/S. EVERSHINE AGRO SPICES,
T.B. JUNCTION, GOLDEN PLAZA,
ANGAMALLY - MANJAPRA ROAD,
ANGAMALY, ERNAKULAM, PIN – 683572.

BY ADVS.
SRI. HARISANKAR V. MENON
SMT. MEERA V. MENON
SRI. R. SREEJITH
SMT. K. KRISHNA
SMT. PARVATHY MENON

RESPONDENTS:

1 THE STATE TAX OFFICER,
TAX PAYER SERVICES CIRCLE,
STATE GOODS & SERVICES TAX DEPARTMENT,
ANGAMALLY, PIN – 683572.

2 THE COMMISSIONER OF STATE GOODS &
SERVICES TAX DEPARTMENT,
SGST DEPARTMENT, TAX TOWERS, KILLIPPALAM,
KARAMANA, THIRUVANANTHAPURAM, PIN – 695002.

BY ADV.
SMT. RESHMITA RAMACHANDRAN – GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

DINESH KUMAR SINGH, J.

W.P.(C) No.25633 of 2023

Dated this the 21st day of November, 2023

JUDGMENT

1. The present writ petition has been filed seeking quashing of the communication in Exhibit P-3 whereby the decision for blocking the input tax credit of the petitioner for an amount of Rs. 16,00,000/- has been communicated to the petitioner.

2. According to the petitioner, the petitioner had received supplys from Mr. Shine Abraham, M/s. Evershine Agro Spices, First Floor, Golden Plaza, 7/415-K8, Angamaly – 683 572 with GSTIN 32AZJPA1985A1ZW. The invoice number of fake GSTIN registration have been taken by people for considering the input tax credit through fake invoices.

3. From the enquiry conducted by the Enforcement Department, it was found that the said address had shutter room and the same was closed for a long period. Attempts to find out the owner of the shop had failed. After finding that the shop is closed for a long period on the basis of the proofs collected and in the presence of

two undersigned independent witnesses, Scene Mahazar was prepared in respect of the shop on 08.06.2023.

4. It was also noticed that the said firm was making fictitious transactions by way of generating e-way bills. The firm mentioned above has settled their tax liabilities ITC utilisation.

5. Considering these facts that on the basis of fake invoices the petitioner had raised the claim for input tax credit on the supplies allegedly received on the basis of the fake invoices, the communication in Exhibit P-3 has been issued. Decision to block input tax credit is an administrative decision. I do not find any substance in this writ petition. The reason for blocking the input tax credit is the fake invoice and fake address of the firm from whom the petitioner had allegedly received the supply. Thus this writ petition is dismissed. The petitioner may avail to any other remedy as may be available to him under the law.

Sd/-
DINESH KUMAR SINGH
JUDGE

Svn

APPENDIX OF WP(C) 25633/2023

PETITIONER'S EXHIBITS

EXHIBIT P1	COPY OF REGISTRATION CERTIFICATE ISSUED BY THE GOVERNMENT OF INDIA IN FORM GST REG-06 DTD. 10-03-2023
EXHIBIT P2	COPY OF RETURN FILED BY THE PETITIONER FOR THE PERIOD MARCH 2023 DTD. NIL
EXHIBIT P2(a)	COPY OF RETURN FILED BY THE PETITIONER FOR THE PERIOD APRIL 2023 DTD. NIL
EXHIBIT P3	COPY OF E-MAIL ISSUED BY THE GST DEPARTMENT TO THE PETITIONER DTD. 08-06-2023

RESPONDENT'S EXHIBITS

EXHIBIT R1[b]	TRUE COPY OF THE LETTER ISSUED BY ENFORCEMENT OFFICER DATED 05.06.2023
EXHIBIT R1[a]	TRUE COPY OF THE SCENE MAHAZAR PREPARED BY THE ENFORCEMENT OFFICERDATED 08. 06.2023 AND ITS TRANSLATION IS PRODUCED HEREWITH
EXHIBIT R1[c]	TRUE COPY OF THE LETTER DATED 12.06. 2023