



2023:KER:71934

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 16TH DAY OF NOVEMBER 2023 / 25TH KARTHIKA, 1945

WP(C) NO. 36437 OF 2023

PETITIONER:

PRAKASH VARGHESE,
AGED 56 YEARS, PROPRIETOR,
SHELTERS REALTY, 1ST FLOOR, XVIII 416,
KAROTTUKUNNEL ARCADE, KALATHIPATHILPADY,
VADAVATHUR, VADAVATHUR P. O.,
KOTTAYAM DISTRICT, PIN - 686010.

BY ADVS.

SRI. MOHAN IDICULLA ABRAHAM
SRI. JEEVAN J. MATHEW
SRI. NIKHITHA T.S.
SRI. RACHEL JOSEPH
SRI. SHYAMILIPRIYA P. P.
SRI. MARTIN D. ALUMKARA

RESPONDENT:

THE STATE TAX OFFICER (LUXURY TAX),
OFFICE OF THE STATE TAX OFFICER, LUXURY TAX,
KOTTAYAM, STATE GOODS AND SERVICES, TAX DEPARTMENT,
KOTTAYAM, KOTTAYAM DISTRICT, PIN - 686002.

BY ADV.

SMT. JASMINE M. M. - GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



DINESH KUMAR SINGH, J.

W.P.(C) No.36437 of 2023

Dated this the 16th day of November, 2023

JUDGMENT

1. The present writ petition has been filed for the following reliefs;

i. issue a writ of mandamus or any other appropriate writ order or direction, directing the respondent to issue Exhibit P3 order afresh, digitally signed, as stipulated in Rule 26 (3) of the Central Goods and Services Tax Rules, 2017, clearly specifying the date on which such order is issued, so as to enable the petitioner to file an appeal against the same before the appellate authority.

Or in the alternative

ii. call for the records leading to Exhibit P3 order, and to quash the same by issuing a writ of certiorari or any other appropriate writ, order or direction and

iii. issue any other appropriate writ or order or direction deemed fit and proper by this Hon'ble Court, in the facts and circumstances of the case.

2. After some arguments, learned Counsel for the petitioner submitted that the petitioner would like to withdraw this writ petition to approach the Appellate Authority under Section 107 of the CGST/Kerala SGST Act, 2017 against the assessment order within the



extended limitation prescribed by Notification No. 53/2023 - Central Tax dated 02.11.2023 issued by the Central Board of Indirect Taxes and Customs.

3. Considering the said submission, the present writ petition is disposed of with liberty to the petitioner to file Appeal under Section 107 of the CGST/Kerala SGST Act, 2017 against Exhibit P-3 order within a period of two weeks from today. If such an Appeal has been filed, same shall be considered and decided considering it is to be on time as per the Notification No. 53/2023 - Central Tax referred to above.

With the aforesaid direction and liberty, this writ petition stands finally disposed of.

Sd/-

**DINESH KUMAR SINGH
JUDGE**

Svn



APPENDIX OF WP(C) 36437/2023

PETITIONER'S EXHIBITS

- EXHIBIT P1 TRUE PHOTOCOPY OF SHOW CAUSE NOTICE DATED 27.10.2021, FROM THE RESPONDENT TO THE PETITIONER
- EXHIBIT P2 TRUE PHOTOCOPY OF REPLY DATED 24.11.2021 SENT BY THE PETITIONER TO THE RESPONDENT
- EXHIBIT P2(a) A LEGIBLE COPY OF EXHIBIT P2
- EXHIBIT P3 TRUE PHOTOCOPY OF ORDER DATED 15.12.2022 ISSUED BY THE RESPONDENT
- EXHIBIT P4 TRUE PHOTOCOPY OF LETTER SENT BY THE PETITIONER TO THE RESPONDENT DATED 02.09.2023
- EXHIBIT P5 TRUE PHOTOCOPY OF JUDGMENT DATED 21.09.2022 DOWNLOADED FROM THE WEBSITE OF THE HIGH COURT OF JUDICATURE AT BOMBAY