IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 21ST DAY OF DECEMBER 2020 / 30TH AGRAHAYANA, 1942

WP(C).No.23270 OF 2020(G)

PETITIONER:

M/S.METROLITE ROOFING PVT. LTD.
KINFRA, KANJIKODE, PALAKKAD 678 621, REPRESENTED BY ITS MANAGING DIRECTOR VASU V.M.,

BY ADVS.
SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON

RESPONDENTS:

1 THE DY. COMMISSIONER OF CENTRAL TAX AND CENTRAL EXCISE PALAKKAD GST DIVISION, METTUPPALAYAM STREET, PALAKKAD 678 001.

2 THE COMMISSIONER (APPEALS) CENTRAL TAX AND CENTRAL EXCISE, CR BUILDINGS, I.S. PRESS ROAD, KOCHI 18.

3 CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS. MINISTRY OF FINANCE (DEPARTMENT OF REVENUE), GOVERNMENT OF INDIA, GST POLICY WING, NORTH BLOCK, NEW DELHI 110 001, REPRESENTED BY ITS COMMISSIONER (GST).

R1-3 BY SREELAL N. WARRIER, SC, CENTRAL BOARD OF EXCISE & CUSTOMS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.12.2020, ALONG WITH WP(C).23275/2020(H), WP(C).23290/2020(I), WP(C).23311/2020(L), WP(C).23342/2020(P), WP(C).23391/2020(Y), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 21ST DAY OF DECEMBER 2020 / 30TH AGRAHAYANA, 1942

WP(C).No.23275 OF 2020(H)

PETITIONER:

M/S.GREAT EFFECTS
14, PULIKILLAM ROAD, CHEMBUMUKKU, KAKKANADU, KOCHI-30,
REPRESENTED BY ITS MANAGING DIRECTOR, CHARLEY ANTONY.

BY ADVS.
SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON
SMT.K.KRISHNA

RESPONDENTS:

1 THE DY. COMMISSIONER OF CENTRAL TAX AND CENTRAL EXCISE
PALAKKAD GST DIVISION, METTUPPALAYAM STREET, PALAKKAD-678 001

2 THE COMMISSIONER (APPEALS)
CENTRAL TAX AND CENTRAL EXCISE, CR BUILDINGS, I.S. PRESS ROAD, KOCHI-18.

3 CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS,
MINISTRY OF FINANCE (DEPARTMENT OF REVENUE), GOVERNMENT OF INDIA, GST POLICY WING, NORTH BLOCK, NEW DELHI-110 001, REPRESENTED BY ITS COMMISSIONER (GST)

R1-3 BY ADV.SRI.SREELAL N. WARRIER, SC, CENTRAL BOARD OF EXCISE & CUSTOMS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.12.2020, ALONG WITH WP(C).23270/2020(G), WP(C).23290/2020(I), WP(C).23311/2020(L), WP(C).23342/2020(P), WP(C).23391/2020(Y), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 21ST DAY OF DECEMBER 2020 / 30TH AGRAHAYANA, 1942

WP(C).No.23290 OF 2020(I)

PETITIONER:

M/S.KUNNATH CHEMICALS PVT. LTD.
K-75, KINFRA, KANJIKODE, PALAKKAD-678 621, REPRESENTED BY ITS DIRECTOR, N.A. ABID ALI.

BY ADVS.
SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON
SMT.K.KRISHNA

RESPONDENTS:

1 THE DY. COMMISSIONER OF CENTRAL TAX AND CENTRAL EXCISE PALAKKAD GST DIVISIONA, METTUPPALAYAM STREET, PALAKKAD-678 001.

2 THE COMMISSIONER (APPEALS) CENTRAL TAX AND CENTRAL EXCISE, CR BUILDINGS, I.S.PRESS ROAD, KOCHI-18.

3 CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS MINISTRY OF FINANCE (DEPARTMENT OF REVENUE), GOVERNMENT OF INDIA, GST POLICY WING, NORTH BLOCK, NEW DELHI-110 001, REPRESENTED BY ITS COMMISSIONER (GST).

R1-3 BY ADV.SRI.SREELAL N. WARRIER, SC, CENTRAL BOARD OF EXCISE & CUSTOMS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.12.2020, ALONG WITH WP(C).23270/2020(G), WP(C).23275/2020(H), WP(C).23311/2020(L), WP(C).23342/2020(P), WP(C).23391/2020(Y), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 21ST DAY OF DECEMBER 2020 / 30TH AGRAHAYANA, 1942

WP(C).No.23311 OF 2020(L)

PETITIONER:

M/S.KAPSTONE INDIA (P) LTD
KINFRA, KANJIKODE, PALAKKAD-678 621, REPRESENTED BY ITS MANAGING DIRECTOR, ARUNDAS C.H.

BY ADVS.
SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON

RESPONDENTS:

1 THE DY. COMMISSIONER OF CENTRAL TAX AND CENTRAL EXCISE PALAKKAD GST DIVISION, METTUPPALAYAM STREET, PALAKKAD-678 001

2 THE COMMISSIONER (APPEALS)
CENTRAL TAX AND CENTRAL EXCISE, CR BUILDINGS, I.S. PRESS ROAD, KOCHI-18

3 CENTRAL BOARD OF INDIRECT TAXESAND CUSTOMS,
MINISTRY OF FINANCE (DEPARTMENT OF REVENUE),
GOVERNMENT OF INDIA, GST POLICY WING, NORTH BLOCK, NEW DELHI-110001, REPRESENTED BY ITS COMMISISONER (GST).

R1-3 BY ADV.SRI.SREELAL N. WARRIER, SC, CENTRAL BOARD OF EXCISE & CUSTOMS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.12.2020, ALONG WITH WP(C).23270/2020(G), WP(C).23275/2020(H), WP(C).23290/2020(I), WP(C).23342/2020(P), WP(C).23391/2020(Y), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 21ST DAY OF DECEMBER 2020 / 30TH AGRAHAYANA, 1942

WP(C).No.23342 OF 2020(P)

PETITIONER:

M/S.EXCEL FOOD PRODUCTS
MANJALY HOUSE, ANNANAD P.O., THRISSUR-680 324,
REPRESENTED BY ITS MANAGING PARTNER, FRANCIS PAUL.

BY ADVS.
SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON

RESPONDENTS:

1 THE DY. COMMISSIONER OF CENTRAL TAX AND CENTRAL EXCISE PALAKKAD GST DIVISION, METTUPPALAYAM STREET, PALAKKAD-678 001.

2 THE COMMISSIONER (APPEALS), CENTRAL TAX AND CENTRAL EXCISE, CR BUILDINGS, IS PRESS ROAD, KOCHI-18.

3 CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS, MINISTRY OF FINANCE (DEPARTMENT OF REVENUE), GOVERNMENT OF INDIA, GST POLICY WING, NORTH BLOCK, NEW DELHI-110 001, REPRESENTED BY ITS COMMISSIONER (GST).

R1-3 BY ADV.SRI.SREELAL N. WARRIER, SC, CENTRAL BOARD OF EXCISE & CUSTOMS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.12.2020, ALONG WITH WP(C).23270/2020(G), WP(C).23275/2020(H), WP(C).23290/2020(I), WP(C).23311/2020(L), WP(C).23391/2020(Y), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 21ST DAY OF DECEMBER 2020 / 30TH AGRAHAYANA, 1942

WP(C).No.23391 OF 2020(Y)

PETITIONER:

M/S.DEELUXE BOTTLES (INDIA) PVT. LTD.
E-98, KINFRA IIT PARK, KANJIKODE, PALAKKAD-678 621,
REPRESENTED BY ITS MANAGING DIRECTOR, V.RAJAGOPAL.

BY ADVS.
SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON

RESPONDENTS:

1 THE DY. COMMISSIONER OF CENTRAL TAX AND CENTRAL EXCISE PALAKKAD GST DIVISION, METTUPPALAYM STREET, PALAKKAD-678 001.

2 THE COMMISSIONER (APPEALS), CENTRAL TAX AND CENTRAL EXCISE, IS PRESS ROAD, KOCHI-18.

3 CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS, MINISTRY OF FINANCE (DEPARTMENT OF REVENUE), GOVERNMENT OF INDIA, GST POLICY WING, NORTH BLOCK, NEW DELHI-110 001, REPRESENTED BY ITS COMMISSIONER (GST).

R1-3 BY ADV.SRI.SREELAL N. WARRIER, SC, CENTRAL BOARD OF EXCISE & CUSTOMS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.12.2020, ALONG WITH WP(C).23270/2020(G), WP(C).23275/2020(H), WP(C).23290/2020(I), WP(C).23311/2020(L), WP(C).23342/2020(P), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

In all these Writ Petitions, the issue that is raised while impugning the orders passed by the 2nd respondent, is that the 2nd respondent did not maintain a record of personal hearing at the time of disposal of the appeals preferred by the petitioners against orders of the original authority. In the Writ Petition, it is the case of the petitioners that in connection with the procedure stipulated for hearing appeals through video conferencing during the Covid-19 pandemic period, the respondent Appellate Authority was obliged to maintain a record of personal hearing and issue a copy of the same to the petitioners so as to comply with the requirements of natural justice. In the instant cases, it is the contention of the learned counsel for the petitioners that no such records of personal hearing was maintained, and at any rate no copies of the said record of personal hearing were sent to the petitioners.

2. Through a statement filed on behalf of the respondents, it is stated that the petitioners were given an opportunity of personal hearing and they were represented by a professional Chartered Accountant on the basis of the authorisation granted to the said person. It is further

stated that inasmuch as there were a large number of cases attended to by the very same authorised representative, the Appellate Authority heard the said authorised person and accepted the common written submissions that were filed for the two separate category of appellants, namely, registered and unregistered persons. It is admitted that the record of personal hearing was inadvertently omitted to be sent to the petitioners although the argument notes already submitted by the authorised representative of the petitioners was available with the appellate authority.

3. I have heard the learned counsel for the petitioners and the learned Standing counsel for the respondents.

On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I am of the view that inasmuch as the procedure for maintaining a record of personal hearing was a formal one that was devised to take care of the compliance with the rules of natural justice during the period when the personal hearing had to be undertaken through video conferencing, taking note of the covid pandemic situation, the respondent Appellate Authority ought to have complied with the said procedure strictly. Inasmuch as in these cases, the said procedure was not complied, I deem it appropriate to quash the impugned orders and direct the appellate authority to pass fresh orders after complying with the said procedure and after hearing the petitioners. The Appellate Authority shall pass fresh orders as directed within two months from the date of receipt of a copy of this judgment.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/21.12.2020

APPENDIX OF WP(C) 23270/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DATED 12.12.2017.
EXHIBIT P2	COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 03.02.2018.
EXHIBIT P3	COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DATED 29.07.2020.

RESPONDENTS EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

APPENDIX OF WP(C) 23275/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	COPY OF ORDER ISSUED BY THE 1ST RESPONDENT 26.12.2017.
EXHIBIT P2	COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 07.03.2018.
EXHIBIT P3	COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DATED 18.08.2020.

RESPONDENTS EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

APPENDIX OF WP(C) 23290/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	COPY OF ORDER ISSUED BY THE IST RESPONDENT DATED 12.12.2017.
EXHIBIT P2	COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 6.2.2018.
EXHIBIT P3	COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DATED 12.8.2020.

RESPONDENTS EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

APPENDIX OF WP(C) 23311/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DATED 12.12.2017.
EXHIBIT P2	COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 09.02.2018.
EXHIBIT P3	COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DATED 11.08.2020.
EXHIBIT P4	COPY OF INSTRUCTION ISSUED BY THE 3RD RESPONDENT DATED 27.04.2020.
EXHIBIT P4 (A)	COPY OF INSTRUCTION ISSUED BY THE 3RD RESPONDENT DATED 21.08.2020.

RESPONDENTS EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

APPENDIX OF WP(C) 23342/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DATED 26.12.2017.
EXHIBIT P2	COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 07.02.2018.
EXHIBIT P3	COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DATED 12.08.2020.

RESPONDENTS EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

APPENDIX OF WP(C) 23391/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DATED 12.12.2017.
EXHIBIT P2	COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 08.02.2018.
EXHIBIT P3	COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DATED 11.08.2020.

RESPONDENTS EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE