

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 07TH DAY OF SEPTEMBER 2020 / 16TH BHADRA, 1942

WP(C).No.18132 OF 2020(N)

PETITIONER/S:

WILD TREE RESORTS BY THE LEGEND PRIVATE LTD.,
PERINTHALMANNA, MALAPPURAM, PIN - 679322, REPRESENTED
BY ITS DIRECTOR SRI.JOJI MATHEW, RESIDING AT
CHAKKUPURAKKAL HOUSE, LV COLONY ROAD, PERINTHALMANNA,
PIN - 679322.

BY ADV. SHRI.SIVANKUTTY S.

RESPONDENT/S:

- 1 STATE TAX OFFICER
DEPARTMENT OF STATE GOODS AND SERVICES TAX, 3RD
FLOOR, MINI CIVIL STATION, PERINTHALMANNA,
MALAPPURAM, PIN - 679322.
- 2 COMMISSIONER,
STATE GOODS AND SERVICES DEPARTMENT, TAX TOWER,
KILLIPPALAM, KARAMANA P O, THIRUVANANTHAPURAM -
695002.
- 3 CHIEF COMMISSIONER
CENTRAL GOODS AND SERVICES TAX, COCHIN ZONE, C.R.
BUILDING. I.S PRESS ROAD, KOCHI - 682018.

OTHER PRESENT:

G.P. DR.THUSHARA JAMES
SRI.SREELAL N WARRIER,SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07.09.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner has approached this Court aggrieved by Ext.P2 series of assessment orders that have been passed under Section 62 of the GST Act. While various contentions have been raised in the writ petition, it is evident from the averments in the writ petition that the petitioner had received the assessment orders under Section 62 of the GST Act, on 04.10.2019, and the returns that had to be filed within 30 days after receipt of the order for getting the benefit of setting aside the orders in terms of Section 62 of the GST Act were filed only on 21.11.2019. Inasmuch as, admittedly, the said returns were filed more than 30 days after the receipt of the orders by the petitioner, the petitioner cannot be heard to contend that Ext.P2 series of orders ought to be set aside in terms of Section 62 of the GST Act.

Accordingly, without prejudice to the right of the petitioner to impugn Ext.P2 series of assessment orders before the appellate authority under the GST Act, the writ petition in its challenge against the said orders is dismissed. Recovery steps for recovery of the amounts confirmed against the petitioner by EXt.P2 Series of assessment orders shall, however, be kept in abeyance for a period of three weeks from the date of receipt of a copy of this judgment, so as to enable the petitioner to avail his appellate remedy in the meanwhile.

Sd/-

A.K.JAYASANKARAN NAMBIAR

JUDGE

sd

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE PHOTOGRAPHS DATED 19.01.2020 OF THE PROJECT SITE.
EXHIBIT P1 (a)	TRUE PHOTOGRAPHS DATED 19.01.2020 OF THE PROJECT SITE.
EXHIBIT P1 (b)	TRUE PHOTOGRAPHS DATED 19.01.2020 OF THE PROJECT SITE.
EXHIBIT P1 (c)	TRUE PHOTOGRAPHS DATED 19.01.2020 OF THE PROJECT SITE.
EXHIBIT P1 (d)	TRUE PHOTOGRAPHS DATED 19.01.2020 OF THE PROJECT SITE.
EXHIBIT P2	TRUE COPY OF ASSESSMENT ORDERS FOR APRIL 2018 DATED 07.08.2019.
EXHIBIT P2 (a)	TRUE COPY OF ASSESSMENT ORDERS FOR MAY 2018 DATED 07.08.2019.
EXHIBIT P2 (b)	TRUE COPY OF ASSESSMENT ORDERS FOR JUNE 2018 DATED 07.08.2019.
EXHIBIT P2 (c)	TRUE COPY OF ASSESSMENT ORDERS FOR JULY 2018 DATED 07.08.2019.
EXHIBIT P2 (d)	TRUE COPY OF ASSESSMENT ORDERS FOR AUGUST 2018 DATED 07.08.2019.
EXHIBIT P2 (e)	TRUE COPY OF ASSESSMENT ORDERS FOR SEPTEMBER 2018 DATED 07.08.2019.
EXHIBIT P2 (f)	TRUE COPY OF ASSESSMENT ORDERS FOR OCTOBER 2018 DATED 07.08.2019.
EXHIBIT P2 (g)	TRUE COPY OF ASSESSMENT ORDERS FOR NOVEMBER 2018 DATED 07.08.2019.
EXHIBIT P2 (h)	TRUE COPY OF ASSESSMENT ORDERS FOR DECEMBER 2018 DATED 07.08.2019.

EXHIBIT P2 (i) TRUE COPY OF ASSESSMENT ORDERS FOR JANUARY 2019 DATED 07.08.2019.

EXHIBIT P2 (j) TRUE COPY OF ASSESSMENT ORDERS FOR FEBRUARY 2019 DATED 07.08.2019.

EXHIBIT P2 (k) TRUE COPY OF ASSESSMENT ORDERS FOR MARCH 2019 DATED 07.08.2019.

EXHIBIT P3 TRUE COPY OF THE MEDICAL CERTIFICATE DATED 27.02.2020

EXHIBIT P4 TRUE COPY OF RETURN DATED 21.11.2019 FILED FOR APRIL.

EXHIBIT P4 (a) TRUE COPY OF RETURN DATED 21.11.2019 FILED FOR MAY 2018.

EXHIBIT P4 (b) TRUE COPY OF RETURN DATED 21.11.2019 FILED FOR JUNE 2018.

EXHIBIT P4 (c) TRUE COPY OF RETURN DATED 21.11.2019 FILED FOR JULY 2018.

EXHIBIT P4 (d) TRUE COPY OF RETURN DATED 21.11.2019 FILED FOR AUGUST 2018.

EXHIBIT P4 (e) TRUE COPY OF RETURN DATED 21.11.2019 FILED FOR SEPTEMBER 2018.

EXHIBIT P4 (f) TRUE COPY OF RETURN DATED 21.11.2019 FILED FOR OCTOBER 2018.

EXHIBIT P4 (g) TRUE COPY OF RETURN DATED 21.11.2019 FILED FOR NOVEMBER 2018.

EXHIBIT P4 (h) TRUE COPY OF RETURN DATED 21.11.2019 FILED FOR DECEMBER 2018.

EXHIBIT P3 (i) TRUE COPY OF RETURN DATED 21.11.2019 FILED FOR JANUARY 2019.

EXHIBIT P4 (j) TRUE COPY OF RETURN DATED 21.11.2019 FILED FOR FEBRUARY 2019.

EXHIBIT P4 (k) TRUE COPY OF RETURN DATED 21.11.2019 FILED FOR MARCH 2019.