

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 25TH DAY OF AUGUST 2020 / 3RD BHADRA, 1942

WP(C).No.16279 OF 2020(H)

PETITIONER:

M/S.FESTOON PROPS AND RENTALS LLP
CC. 37/547A1, EZHUTHULLI BUILDINGS, MUTTATHIL LANE,
KADAVANTHARA, KOCHI 682 020 , REPRESENTED BY BY IS PARTNER
SRI. ANUP JOY.

BY ADVS.
SMT.M.K.HAJARA
SRI.AJI V.DEV
SRI.ALAN PRIYADARSHI DEV
SHRI.KIRAN RAMACHANDRAN NAIR

RESPONDENTS:

- 1 THE STATE TAX OFFICER, SQUAD NO. II,
STATE GOODS AND SERVICES TAX, DEPARTMENT, STATE GST COMPLEX,
BEHIND CIVIL STATION, PALAKKAD 678 001.
- 2 THE ASSISTANT STATE TAX OFFICER, SQUAD NO. II,
STATE GOODS AND SERVICES TAX, DEPARTMENT, STATE GST COMPLEX,
BEHIND CIVIL STATION, PALAKKAD 678 001.
- 3 THE JOINT COMMISSIONER (APPEALS) ,
STATE GOODS AND SERVICES TAX, DEPARTMENT, STATE GST COMPLEX,
BEHIND CIVIL STATION, PALAKKAD 678 001.
- 4 THE JOINT COMMISSIONER (APPEALS) ,
STATE GOODS AND SERVICES TAX, DEPARTMENT, STATE GST COMPLEX,
SGST COMPLEX, THEVARA, PERUMANOOR P.O. ERNAKULAM 682 015.
- 5 THE COMMISSIONER OF STATE TAXES,
TAX TOWER, KILLIPPALAM, KARAMANA P.O. THIRUVANANTHAPURAM 695
002.
- 6 UNION OF INDIA,
REPRESENTED BY SECRETARY, FINANCE DEPARTMENT DELHI, DEPARTMENT
OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH
BLOCK, NEW DELHI 110 001.
- 7 THE BRANCH MANAGER, UNION BANK OF INDIA,
JAWAHARNAGAR BRANCH, ERNAKULAM 682 020.

R1 TO R5 BY GOVERNMENT PLEADER DR.THUSHARA JAMES
R7 BY ADV.SRI.A.S.P.KURUP
R6 BY ADV.SRI.P.VIJAYAKUMAR, ASG

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25.08.2020,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner has approached this Court challenging Ext.P6 penalty order passed under Section 130 of the GST Act. During the pendency of the Writ petition the petitioner preferred Ext.P11 appeal before the 3rd respondent against Ext.P6 penalty order. The limited prayer now is for a direction to the 3rd respondent to consider and pass orders on Ext.P11 appeal expeditiously, and to keep in abeyance recovery steps for the balance amounts recoverable from the petitioner pursuant to Ext.P6 penalty order, in the meanwhile.

2. I have heard the learned counsel appearing for the petitioner, the learned Government Pleader appearing for the respondents 1 to 5, the learned Central Government counsel for the 6th respondent and the learned Standing counsel for the 7th respondent.

On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I dispose the Writ petition with a direction to the 3rd respondent to consider and pass orders on Ext.P11 appeal within six weeks from the date of receipt of a copy of this judgment, after hearing the petitioner, either through physical hearing or through video conferencing as the case may be. I make it clear that till such time as orders are passed by the 3rd respondent in the appeal, and

the order communicated to the petitioner, there will be a stay of operation of Ext.P9, and the communication of the 1st respondent referred to therein. As a result, the lien exercised by the 1st respondent on the bank account of the petitioner with the 7th respondent shall stand lifted during the period when the stay granted in this judgment is in force. The petitioner shall produce a copy of the writ petition together with a copy of this judgment, before the 3rd respondent, for further action.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

APPENDIX

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 A TRUE COPY OF THE BANK GUARANTEE FURNISHED DATED
07.11.2019.
- EXHIBIT P1 (A) A TRUE COPY OF THE SIMPLE BOND FURNISHED DATED
07.11.2019.
- EXHIBIT P2 A TRUE COPY OF THE APPEAL FILED BEFORE THE 3RD
RESPONDENT DATED 21.11.2019 AND FILED DATED
30.11.2019.
- EXHIBIT P3 A TRUE COPY OF THE NOTICE ISSUED BY THE 1ST
RESPONDENT DATED 02.12.2019.
- EXHIBIT P4 A TRUE COPY OF THE JUDGMENT IN WPC NO. 33823 OF 2019
DAD 13.12.2019.
- EXHIBIT P5 A TRUE COPY OF THE NOTICE ISSUED BY THE 1ST
RESPONDENT DATED 25.02.2020.
- EXHIBIT P6 A TRUE COPY OF THE ADJUDICATION ORDER PASSED U/S. 130
READ WITH SECTION 122 OF THE CGST/SGST ACTS DATED
19.06.2020.
- EXHIBIT P7 A TRUE COPY OF THE COVERING LETTER DATED 04.08.2020
SENT TO THE 3RD RESPONDENT.
- EXHIBIT P8 A TRUE COPY OF THE REQUEST LETTER SO FILED BEFORE THE
3RD RESPONDENT DATED 21.07.2020.
- EXHIBIT P9 A TRUE COPY OF THE COMMUNICATION RECEIVED BY THE
PETITIONER FROM THE 7TH RESPONDENT BANK.
- EXHIBIT P10 A TRUE COPY OF THE LETTER FIELD BEFORE THE 1ST
RESPONDENT REQUESTING WITHDRAWAL OF RECOVERY STEPS
DATED 03.08.2020.
- EXHIBIT P11 A TRUE COPY OF THE APPEAL DATED:11.08.2020 FILED
AGAINST EXT. P6 ORDER ON 13.08.2020.
- RESPONDENTS EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE