IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 05TH DAY OF FEBRUARY 2020 / 16TH MAGHA, 1941

WP(C).No.2985 OF 2020(W)

PETITIONER/S:

M/S. PINNACLE MOTOR WORKS PRIVATE LIMITED
NH 47, MANNUTHY BY-PASS, KUTTANELLUR P.O., THRISSUR-14, REPRESENTED BY ITS GENERAL MANAGER, FINANCE AND ACCOUNTS, MILAN T.B.

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

RESPONDENT/S:

1 THE STATE TAX OFFICER-1,
FOURTH CIRCLE, SGST DEPARTMENT, TAX COMPLEX, POOTHOLE, THRISSUR-680004.

2 THE COMMISSIONER OF STATE GST,
STATE GST DEPARTMENT, TAX TOWERS, KILLIPPALAM, KARAMANA, THIRUVANANTHAPURAM-695002.

OTHER PRESENT:

SRI.M.M.JASMINE, GOVT.PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05.02.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 05TH DAY OF FEBRUARY 2020 / 16TH MAGHA, 1941

WP(C).No.2987 OF 2020(W)

PETITIONER/S:

M/S. PINNACLE MOTOR WORKS (P) LTD.
NH 47, MANNUTHY BY-PASS, KUTTANELLUR P.O.,
THRISSUR, REPRESENTED BY ITS CHIEF MANAGER-FINANCE
AND ACCOUNTS, MILAN.T.B.

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

RESPONDENT/S:

1 THE STATE TAX OFFICER-1
FOURTH CIRCLE, SGST DEPARTMENT, TAX COMPLEX,
POOTHOLE, THRISSUR-680 004.

2 THE COMMISSIONER OF STATE GST,
STATE GST DEPARTMENT, TAX TOWERS, KILLIPPALAM,
KARAMANA, THIRUVANANTHAPURAM-695 002.

OTHER PRESENT:

SMT.M.M.JASMINE, GOVT.PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05.02.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 05TH DAY OF FEBRUARY 2020 / 16TH MAGHA, 1941

WP(C).No.3059 OF 2020(F)

PETITIONER/S:

PINNACLE MOTOR WORKS(P)LTD.
NH 47, MANNUTHY BY-PASS, KUTTANELLUR P.O.,THRISSUR - 14, REPRESENTED BY ITS GENERAL MANAGER - FINANCE AND ACCOUNTS, , MILAN T.B.

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

RESPONDENT/S:

1 THE STATE TAX OFFICER-1
FOURTH CIRCLE, SGST DEPARTMENT, TAX COMPLEX, POOTHOLE, THRISSUR - 680 004

2 THE COMMISSIONER OF STATE GST
STATE GST DEPARTMENT, TAX TOWERS, KILLIPPALAM, KARAMANA, THIRUVANANTHAPURAM - 695 002

OTHER PRESENT:

SMT.M.M.JASMINE, GOVT.PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05.02.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ALEXANDER THOMAS, J.

W.P.(C.) Nos. 2985, 2987 and 3059 of 2020

Dated this the 5th day of February, 2020

JUDGMENT

The case set up in W.P.(C.) No.2985/2020 is as follows :

That the petitioner is an assessee to GST on the rolls of the 1st respondent herein. On account of severe financial crisis, petitioner has defaulted filing of return from November, 2018. Now, the 1st respondent has issued Ext.P1 order of assessment under Sec.62 of the Act fixing the tax liability at exorbitant figures. But the said order does not comply with the yardsticks prescribed under Sec.62 of the Act. Further, the petitioner has already regularised the return for the defaulted month as seen from Ext.P2.

2. The case set up in W.P.(C.) No.2987/2020 is as follows :

That the petitioner is an assessee to GST on the rolls of the 1st respondent herein. On account of severe financial crisis, petitioner has defaulted filing of return from November, 2018. Now, the 1st respondent has issued Ext.P1 order of assessment under Sec.62 of the Act fixing the tax liability at exorbitant figures. But the said order does not comply with the yardsticks prescribed under Sec.62 of the Act. Further, the petitioner has already regularised the return for the defaulted month as seen from Ext.P2.

3. The case set up in W.P.(C.) No.3059/2020 is as follows :

That the petitioner is an assessee to GST on the rolls of the 1st respondent herein. On account of severe financial crisis, petitioner has defaulted filing of return from November, 2018. Now, the 1st respondent has issued Ext.P1 order of assessment under Sec.62 of the Act fixing the tax liability at exorbitant figures. But the said order does not comply with the yardsticks prescribed under Sec.62 of the Act. Further, the petitioner has already regularised the return for the defaulted month as seen from Ext.P2.

4. In the light of these averments and contentions, the petitioner has filed the W.P.(C.) No.2985/2020 with the following prayers :

> *(i) "To quash Ext.P1 order issued by 1st respondent by the issue of a writ of certiorari or such other writ or order or direction.*
> *(ii) To grant the petitioner such other incidental reliefs including the costs of these proceedings."*

5. In the light of these averments and contentions, the petitioner has filed the W.P.(C.) No.2987/2020 with the following prayers :

> *(i) "To quash Ext.P1 order issued by 1st respondent by the issue of a writ of certiorari or such other writ or order or direction.*
> *(ii) To grant the petitioner such other incidental reliefs including the costs of these proceedings."*

6. In the light of these averments and contentions, the petitioner has filed the W.P.(C.) No.3059/2020 with the following prayers :

> *(i) "To quash Ext.P1 order issued by 1st respondent by the issue of a writ of certiorari or such other writ or order or direction.*
> *(ii) To grant the petitioner such other incidental reliefs including the costs of these proceedings."*

7. Heard Sri.Harisankar V. Menon, learned counsel appearing for the petitioner and Smt. M.M.Jasmine, learned Government Pleader appearing for the respondents in this case.

8. After having heard both sides, it is seen that the matter in issue raised in these cases is fully covered against the petitioners and in favour of the respondent revenue as per the dictum laid down by the Division Bench of this Court in the judgment dated 23.10.2019 in W.A.No.2180/2019 and other connected appeals, wherein it has been held in para No.4 which reads as follows :

> *"We are not prima facie convinced that there exists any special circumstances warranting interference of this court to hold that the impugned assessments are per se illegal or unsustainable. As observed by the learned Single Judge, the assesses herein had committed default continuously in filing the returns, in responding to the notices requiring them to file the returns, in responding to the notice proposing best judgment assessments etc. Even after receipt of the impugned orders of assessment, they failed to avail the remedy provided under subsection (2) of Section 62. Under such circumstances we cannot entertain the challenges raised against the best judgment assessments finalized. Eventhough the details of the materials available before the assessing authority is not explained in the order, it can only be presumed that the best judgment assessment was completed on the basis of the materials available with the Assessing Officer. However, we take note of the fact that, against the impugned orders the appellants have got an effective remedy by way of statutory appeal. There exists no circumstances to quash the impugned orders in exercise of the jurisdiction vested under Article 226 of the Constitution of India, by permitting the appellants to bypass such effective remedy available."*

Accordingly, it is ordered that the above W.P.(C)s are bereft of any merit and the aforecaptioned W.P.(C.)s will stand dismissed.

SD/-

ALEXANDER THOMAS,
JUDGE

SKS

APPENDIX OF W.P.(C.) NO.2985/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	COPY OF ASSESSMENT ORDER ISSUED BY THE 1ST RESPONDENT FOR THE RETURN PERIOD NOVEMBER 2018 DATED 15/07/2019.
EXHIBIT P2	COPY OF RETURN IN FORM GSTR-3B FILED BY THE PETITIONER FOR THE MONTH NOVEMBER 2018 DATED 17/08/2019.

APPENDIX OF W.P.(C.) NO.2987/2020

PETITIONER'S/S EXHIBITS:

EXT P1 COPY OF ASSESSMENT ORDER ISSUED BY THE 1ST RESPONDENT FOR THE RETURN PERIOD JANUARY 2019

EXT.P2 COPY OF RETURN IN FORM GSTR-3B FILED BY THE PETITIONER FOR THE MONTH JANUARY 2019

APPENDIX OF W.P.(C.) NO.3059/2020

PETITIONER'S/S EXHIBITS:

EXT P1 COPY OF ASSESSMENT ORDER ISSUED BY THE 1ST RESPONDENT FOR THE RETURN PERIOD FEBRUARY 2019

EXT.P1(A) COPY OF SUMMARY OF THE ORDER IN FORM GST-DRC-07 ISSUED BY THE 1ST RESPONDENT.

EXT.P2 COPY OF RETURN IN FORM GSTR-3B FILED BY THE PETITIONER FOR THE MONTH FEBRUARY 2019