IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 14TH DAY OF NOVEMBER 2019/23RD KARTHIKA, 1941

W.P(C).No.27731 OF 2019(N)

PETITIONER:

S.BINDU
AGED 43 YEARS
WORKS CONTRACTOR, PUNARTHAM, VILAVOORKONAM,
KALLUVATHUKKAL, KOLLAM-691578, KERALA STATE.

BY ADV. SRI.V.DEVANANDA NARASIMHAM

RESPONDENTS:

1 THE ASSISTANT COMMISSIONER,
CENTRAL GOODS AND SERVICE TAX DEPARTMENT, KOLLAM DIVISION, ST.MARYS BUILDING, KADAPPAKKADA, KOLLAM-691008.

2 THE CENTRAL BOARD OF INDIRECT TAXES
AND CUSTOMS, MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, THE GOVERNMENT OF INDIA, NEW DELHI-110001, REPRESENTED BY THE UNDER SECRETARY TO THE GOVERNMENT OF INDIA.

3 THE GOODS AND SERVICE TAX COUNCIL,
5TH FLOOR, TOWER II, JEEVAN BHARATI BUILDING, JANPATH ROAD, CONNAUGHT PLACE, NEW DELHI-110001, REPRESENTED BY ITS CHAIRPERSON.

4 THE GOODS AND SERVICES TAX NETWORK,
EAST WING, 4TH FLOOR, WORLD MARK-1, AEROCITY,
NEW DELHI-110037, REPRESENTED BY ITS MANAGING DIRECTOR.

5 THE STATE OF KERALA,
TAXES(B) DEPARTMENT, STATE GOODS AND SERVICE TAX DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695001, REPRESENTED BY ITS SECRETARY TO THE GOVERNMENT.

R1-2 BY SRI.P.R.SREEJITH, SC, CENTRAL BOARD OF EXCISE AND CUSTOMS
BY SMT.THUSHARA JAMES, GOVT. PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14.11.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

The writ petition is filed by a registered works contract service provider for a direction to the 3rd respondent to consider Ext.P5 representation filed by her for providing one more chance to migrate to the GST registration from the erstwhile registration held under the provisions of the Finance Act, 1994, as amended. The facts in the writ petition would indicate that pursuant to the introduction of the GST, the petitioner was allotted a Provisional Goods and Service Tax Identification Number [GSTIN] through the common portal of the GSTN in terms of the CGST Rules, 2017. As per the procedure envisaged, the provisional GSTIN had to be migrated to a regular GSTIN within the transition period provided under the Statute. It is not in dispute that the petitioner did not choose to migrate to the regular registration within the time granted under the Statute. The migration did not happen even thereafter within the two subsequent periods of extension that were granted by the Central Government for the purposes of migration. The extension granted covered the period from 2017 to 31.1.2019, but even then, the petitioner did not avail the opportunity granted to switch over to the regular registration. It was only in March, 2019 that a fresh registration was taken by the petitioner under the GST Act. The prayer in the writ petition is essentially for accepting a migration to the GST registration with effect from July, 2017 so that the petitioner can pay the applicable taxes and claim input credit in respect of the then accumulated stock. In my view, the request of the petitioner cannot be entertained, since the petitioner did not avail of the many opportunities granted by the respondents for migrating to the GST registration. The inaction on the part of the petitioner cannot be condoned, and hence, taking note of the averments in the statement filed on behalf of respondents 1 and 2, I find that the prayer sought for in the writ petition cannot be granted. The writ petition fails, and is accordingly dismissed.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/14/11/19

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE SERVICE TAX REGISTRATION CERTIFICATE ISSUED BY THE SUPERINTENDENT, CENTRAL EXCISE DIVISION, KOLLAM-II RANGE,KOLLAM-691008 IN FORM ST-2 DATED 10.9.15.
EXHIBIT P2	TRUE COPY OF THE STATUS REPORT OF PROVISIONAL REGISTRATION GSTIN32 CFKPB1386M1ZD, DOWNLOADED FROM THE COMMON PORTAL/WEBSITE MAINTAINED BY 4TH RESPONDENT.
EXHIBIT P3	TRUE COPY OF APPLICATION DATED 6.9.19, FILED BEFORE 1ST RESPONDENT REQUESTING TO ENABLE GSTN WEBSITE TO FILE RETURNS BY USING PROVISIONAL GSTIN32CFKPB1386M1ZD.
EXHIBIT P4	TRUE COPY OF LETTER DATED 17.9.19 ISSUED BY 1ST RESPONDENT FOR NON-CONSIDERATION OF MIGRATION REQUEST OF THE PETITIONER.
EXHIBIT P5	TRUE COPY OF REPRESENTATION DATED 4.10.19 FILED BEFORE 3RD AND 2ND RESPONDENTS REQUESTING TO PROVIDE ON MORE OPPORTUNITY TO FILE RETURNS AND TO PAY TAX.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE