

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 28TH DAY OF OCTOBER 2019 / 6TH KARTHIKA, 1941

RP.No.945 OF 2019 IN WP(C).No.13562/2018

SEEKING REVIEW OF JUDGMENT DATED 14.03.2019 IN WP(C)NO.
13562/2018(U) OF HIGH COURT OF KERALA

REVIEW PETITIONERS/RESPONDENTS 1,2,4 AND 6:

- 1 GOODS AND SERVICES TAX COUNCIL,
O/O.THE GST COUNCIL SECRETARIAT, 5TH FLOOR,
TOWER II, JEEVAN BHARATH BUILDING,
JANPATH CANNAUGHT PLACE, NEW DELHI-110 001,
REPRESENTED BY THE SECRETARY TO GST COUNCIL.
- 2 UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE,
NORTH BLOCK, NEW DELHI-110 001.
- 3 THE PRINCIPAL CHIEF COMMISSIONER,
CENTRAL GOODS AND SERVICES TAX,
CENTRAL REVENUE BUILDING, ERNAKULAM-682 018.
- 4 THE GOODS AND SERVICE TAX NET WORK PVT.LTD.
GSTIN, EAST WING, WORLD MARK-I, 4TH FLOOR,
AEROCITY, INDIRA GANDHI INTERNATIONAL AIR PORT,
NEW DELHI-110 037,
REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADV. SRI.P.R.SREEJITH

RESPONDENTS/PETITIONERS 1 TO 3 AND RESPONDENTS 3,5 AND 7:

- 1 M/S.POTHYS,
TC.28/2477(3), NIKUNJAM CITY SQUARE,
MG ROAD, THIRUVANANTHAPURAM-695 001,
REPRESENTED BY ITS MANAGING PARTNER, S.RAMESH.
- 2 M/S.POTHYS MATCHINGS,
TC.28/2477(5), NIKUNJAM CITY SQUARE,
MG ROAD, THIRUVANANTHAPURAM-695 001,
REPRESENTED BY ITS MANAGING PARTNER, S.RAMESH.

- 3 M/S.POTHYS, FABRICS, TC.28/2477(5),
NIKUNJAM CITY SQUARE, MG ROAD,
THIRUVANANTHAPURAM-695 001,
REPRESENTED BY ITS MANAGING PARTNER, RAMESH.
- 4 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF FINANCE, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
- 5 THE COMMISSIONER,
STATE GOODS AND SERVICES TAX,
TAX TOWER, KARAMANA,
THIRUVANANTHAPURAM-695 002.
- 6 THE ASSISTANT COMMISSIONER OF STATE TAX,
STATE GOODS AND SERVICES TAX, TAX TOWER,
KARAMANA, THIRUVANANTHAPURAM-695 002.

BY ADVS.SRI.K.P.HARISH, SR.GOV'T.PLEADER
SMT.S.K.DEVI

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON
28.10.2019, ALONG WITH RP.946/2019, RP.948/2019, RP.974/2019,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 28TH DAY OF OCTOBER 2019 / 6TH KARTHIKA, 1941

RP.No.946 OF 2019 IN WP(C)NO.13488/2018

SEEKING REVIEW OF JUDGMENT DATED 14.03.2019 IN WP(C)
No.13488/2018(I) OF HIGH COURT OF KERALA

REVIEW PETITIONERS/RESPONDENTS 1,2,4 AND 6:

- 1 GOODS AND SERVICE TAX COUNCIL,
OFFICE OF THE GST COUNCIL SECRETARIAT, 5TH FLOOR,
TOWER II, JEEVAN BHARATH BUILDING,
JANPATH CANNAUGHT PLACE, NEW DELHI - 110 001,
REPRESENTED BY THE SECRETARY TO GST COUNCIL.
- 2 UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE,
NORTH BLOCK, NEW DELHI - 110 001.
- 3 THE PRINCIPAL CHIEF COMMISSIONER,
CENTRAL GOODS AND SERVICE TAX,
CENTRAL REVENUE BUILDING, ERNAKULAM - 682 018.
- 4 THE GOODS AND SERVICE TAX NETWORK PVT. LTD.,
GSTIN, EAST WING, WORLD MARK-I, 4TH FLOOR,
AEROCITY, INDIRA GANDHI INTERNATIONAL AIR PORT,
NEW DELHI - 110 037,
REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADV. SRI.P.R.SREEJITH, SC,
CENTRAL BOARD OF EXCISE AND CUSTOMS

RESPONDENTS/PETITIONER AND RESPONDENTS 3,5 AND 7:

- 1 K.V.P.SADAYANDI,
PROPRIETOR, POTHYS SUPER STORES,
TC 28/2477/1, NIKUNJAN CITY SQUARE,
M. G. ROAD, THIRUVANANTHAPURAM - 695 001.
- 2 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,

DEPARTMENT OF FINANCE, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

- 3 THE COMMISSIONER,
STATE GOODS AND SERVICES TAX, TAX TOWER,
KARAMANA, THIRUVANANTHAPURAM - 695 002.
- 4 THE ASSISTANT COMMISSIONER OF STATE TAX,
STATE GOODS AND SERVICES TAX, TAX TOWER,
KARAMANA, THIRUVANANTHAPURAM - 695 002.

BY ADVS.SMT.S.K.DEVI,
SRI.K.P.HARISH, SR.GOV'T.PLEADER

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON
28.10.2019, ALONG WITH RP.945/2019, RP.948/2019, RP.974/2019,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 28TH DAY OF OCTOBER 2019 / 6TH KARTHIKA, 1941

RP.No.948 OF 2019 IN WP(C)NO.13616/2018

SEEKING REVIEW OF JUDGMENT DATED 14.03.2019 IN WP(C)
NO.13616/2018(B) OF HIGH COURT OF KERALA

REVIEW PETITIONERS/RESPONDENTS 1,2,4 AND 6:

- 1 GOODS AND SERVICES TAX COUNCIL,
O/O. THE GST COUNCIL SECRETARIAT, 5TH FLOOR,
TOWER II, JEEVAN BHARATH BUILDING,
JANPATH CANNAUGHT PLACE, NEW DELHI-110 001,
REPRESENTED BY THE SECRETARY TO GST COUNCIL
- 2 UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE,
NORTH BLOCK, NEW DELHI-110 001.
- 3 THE PRINCIPAL CHIEF COMMISSIONER,
CENTRAL GOODS AND SERVICE TAX,
CENTRAL REVENUE BUILDING, ERNAKULAM-682 018
- 4 THE GOODS AND SERVICE TAX NETWORK PVT.LTD.,
GSTIN,EAST WING, WORLD MARK-I,4TH FLOOR,
AEROCITY, INDIRA GANDHI INTERNATIONAL AIR PORT,
NEW DELHI-110 037,
REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADV. SRI.P.R.SREEJITH, SC,
CENTRAL BOARD OF EXCISE AND CUSTOMS

RESPONDENTS/PETITIONER AND RESPONDENTS 3,5 AND 7:

- 1 M/S.CHERAN AUTOMOBILES
NORTH OF NH,TC 55/500,501,500-1,
CHERAN HERO, KAIMANAM, PAPPANAMCODE P.O.,
THIRUVANANTHAPURAM -695 002,
REPRESENTED BY ITS MANAGING PARTNER,
ARUMUKA PERUMAL.
- 2 STATE OF KERALA,

REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF FINANCE, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

3 THE COMMISSIONER,
STATE GOODS AND SERVICE TAX,
TAX TOWER, KARAMANA,
THIRUVANANTHAPURAM-695 002.

4 THE ASSISTANT COMMISSIONER OF STATE TAX,
STATE GOODS AND SERVICES TAX, TAX TOWER,
KARAMANA, THIRUVANANTHAPURAM-695 002.

BY ADVS.SMT.S.K.DEVI,
SRI.K.P.HARISH, SR.GOV'T.PLEADER

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON
28.10.2019, ALONG WITH RP.945/2019, RP.946/2019, RP.974/2019,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 28TH DAY OF OCTOBER 2019 / 6TH KARTHIKA, 1941

RP.No.974 OF 2019 IN WP(C)NO.13555/2018

SEEKING REVIEW OF JUDGMENT DATED 14.03.2019 IN WP(C)NO.
13555/2018(T) OF HIGH COURT OF KERALA

REVIEW PETITIONERS/RESPONDENTS 1,2,3 AND 6:

- 1 GOODS AND SERVICES TAX COUNCIL,
O/O THE GST COUNCIL SECRETARIAT, 5TH FLOOR,
TOWER II, JEEVAN BHARATH BUILDING, JANPATH
CANNAUGHT PLACE , NEW DELHI -110 001,
REPRESENTED BY THE SECRETARY TO GST COUNCIL
- 2 UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE, NORTH BLOCK,
NEW DELHI- 110 001.
- 3 THE PRINCIPAL CHIEF COMMISSIONER,
CENTRAL GOODS AND SERVICES TAX,
CENTRAL REVENUE BUILDING, ERNAKULAM- 682 018
- 4 THE GOODS AND SERVICE TAX NET WORK PVT. LTD.,
GSTIN, EAST WING, WORK MARK-1, 4TH FLOOR,
AEROCITY, INDIRA GANDHI INTERNATIONAL AIR PORT,
NEW DELHI -110 037,
REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADV. SRI.P.R.SREEJITH

RESPONDENTS/PETITIONERS 1 TO 3 AND RESPONDENTS 3,5 AND 7:

- 1 POTHYS TEXTILES
TC. 28/2477(4), NIKUNJAM CITY SQUARE,
MG ROAD, THIRUVANANTHAPURAM -695 001,
REPRESENTED BY ITS MANAGING PARTNER, S MAGESH.
- 2 M/S. POTHYS GARMENTS, TC 28/24776,
NIKUNJAM CITY SQUARE, M G ROAD,

THIRUVANANTHAPURAM- 695 001,
REPRESENTED BY ITS MANAGING PARTNER, S MAGESH

3 S. MAGESH,
PROPRIETOR, M/S. POTHYS LIFESTYLE,
TC 28/2477(7), NIKUNJAM CITY SQUARE,
MG ROAD, THIRUVANANTHAPURAM- 695 001.

4 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF FINANCE, SECRETARIAT,
THIRUVANANTHAPURAM- 695 001.

5 THE COMMISSIONER,
STATE GOODS AND SERVICES TAX, TAX TOWER,
KARAMANA, THIRUVANANTHAPURAM -695 002

6 THE ASSISTANT COMMISSIONER OF STATE TAX,
STATE GOODS AND SERVICES TAX, TAX TOWER,
KARAMANA, THIRUVANANTHAPURAM -695 002.

BY ADVS.SMT.S.K.DEVI,
SRI.K.P.HARISH, SR.GOV'T.PLEADER

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON
28.10.2019, ALONG WITH RP.945/2019, RP.946/2019, RP.948/2019,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

[RP No.945/2019, RP No.946/2019, RP No.948/2019, RP No.974/2019]

These review petitions are filed by the Goods and Services Tax Council along with Union Government aggrieved by Judgment of this Court dated 14.03.2019 in W.P. (C)Nos.13562,13488,13616 & 13555 of 2018. This Court disposed of all these writ petitions permitting the writ petitioners to submit GST TRAN-1 Form claiming input tax as provided under Section 140 (3) of the Central Act. This Court disposed writ petitions on a premise that the writ petitioners could not upload the details on account of technical snag.

2. The review petitioners placed reliance upon the judgment in W.P.(C)No. 41337/2018. It is appropriate to refer paragraphs 4,5 &6 of the said judgment, which read thus:

“4. Not only the petitioner but also many other people faced this technical glitch and approached this Court. Both the learned counsel submit that this Court on earlier occasions permitted the petitioner to apply to the Nodal Officer concerned to have the issue resolved.

5. So, here too, the petitioner may apply to the Nodal Officer, the second respondent. The petitioner applying, the Nodal Officer will look into the issue and

facilitate the petitioner's uploading FORM GST TRAN-1, without reference to the time-frame. Ordered so.

6. I may also observe that if the petitioner applies within two weeks after receiving this judgment, the Nodal Officer will consider it and take steps within a week thereafter. If the uploading of FORM GST TRAN-1 is not possible for reasons not attributable to the petitioner, the authority will also enable it to take credit of the input tax available at the time of its migration.”

In the aforesaid judgment, this Court left the decision of the Nodal Officer concerned to decide whether delay in uploading details was attributable to the writ petitioners or not. The writ petitioners have no objections in giving similar directions.

In the light of above, the review petitions are allowed holding that the directions in the judgment in W.P.(C) No. 41337/2018 would govern this matter as well. All the directions in the above judgment shall be followed in the case of the petitioners as well. Accordingly, the review petitions are disposed of.

sd/-

A. MUHAMED MUSTAQUE

JUDGE

APPENDIX OF RP 945/2019

PETITIONER'S/S EXHIBITS:

- ANNEXURE I TRUE COPY OF THE NOTIFICATION NO.48/2018
CENTRAL TAX DATED 10.9.2018.
- ANNEXURE II TRUE COPY OF THE CIRCULAR NO.39/13/2018
DATED 3.4.2018 CONSTITUTING IT GRIEVANCE
REDRESSAL MECHANISM.
- ANNEXURE III TRUE COPY OF THE JUDGMENT DATED 20.3.2019
IN WPC.NO.4315/2019 OF THIS HON'BLE COURT.

RESPONDENT'S/S EXHIBITS : NIL.

//TRUE COPY//

C.A. TO JUDGE

APPENDIX OF RP 946/2019

PETITIONER'S/S EXHIBITS:

- ANNEXURE I TRUE COPY OF THE NOTIFICATION NO.48/2018
CENTRAL TAX DATED 10.09.2018.
- ANNEXURE II TRUE COPY OF THE CIRCULAR NO. 39/13/2018
DATED 03.04.2018 CONSTITUTING IT GRIEVANCE
REDRESSAL MECHANISM.
- ANNEXURE III TRUE COPY OF THE JUDGMENT DATED 20.03.2019
IN WP(c)NO.4315/2019 OF THIS HON'BLE COURT.

RESPONDENT'S/S EXHIBITS : NIL.

//TRUE COPY//

C.A. TO JUDGE

APPENDIX OF RP 948/2019

PETITIONER'S/S EXHIBITS:

ANNEXURE-1 TRUE COPY OF THE NOTIFICATION NO.48/2018
CENTRAL TAX DATED 10.09.2018

ANNEXURE-II TRUE COPY OF THE CIRCULAR NO.39/13/2018
DATED 03.04.2018 CONSTITUTING IT GRIEVANCE
REDRESSAL MECHANISM

ANNEXURE-III TRUE COPY OF THE JUDGMENT DATED 20.03.2019
IN WPC NO.4315/2019 OF THIS HON'BLE COURT

RESPONDENT'S/S EXHIBITS : NIL.

//TRUE COPY//

C.A. TO JUDGE

APPENDIX OF RP 974/2019

PETITIONER'S/S EXHIBITS:

- ANNEXURE 1 TRUE COPY OF THE NOTIFICATION NO 48/2018
CENTRAL TAX DATED 10-09-2018
- ANNEXURE II TRUE COPY OF THE CIRCULAR NO. 39/13/2018
DATED 03-04-2018 CONSTITUTING IT GRIEVANCE
REDRESSAL MECHANISM
- ANNEXURE III TRUE COPY OF THE JUDGMENT DATED 20-03-2019
IN WP(C) NO. 4315/2019 OF THIS HON'BLE
COURT.

RESPONDENT'S/S EXHIBITS : NIL.

//TRUE COPY//

C.A. TO JUDGE