IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

WEDNESDAY, THE 16TH DAY OF OCTOBER 2019/24TH ASWINA, 1941

WA.No.2003 OF 2019

AGAINST THE JUDGMENT IN WP(C) 21629/2018(C) OF HIGH COURT OF KERALA DATED 11.1.2019

APPELLANT/PETITIONER:

MAJO ABRAHAM
AGED 39 YEARS
PROPRIETOR,GOLDEN SAW MILL,
PERINGOME, PAYYANNUR(P.O),
PIN-670307,KANNUR DISTRICT.

BY ADVS.
SRI.K.N.SREEKUMARAN
SRI.N.SANTHOSHKUMAR

RESPONDENTS/RESPONDENTS:

1 STATE TAX OFFICER
STATE GOODS AND SERVICE TAX DEPARTMENT,
PAYYANNUR-670307.

2 COMMISSIONER OF STATE TAXES,
TAX TOWER, KARAMANA,
THIRUVANANTHAPURAM-695002.

3 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO TAXES,
SECRETARIAT,
THIRUVANANTHAPURAM-695002.

4 CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS
REPRESENTED BY ITS CHAIRMAN,
DEPARTMET OF REVENUE,
NORTH BLOCK, NEW DELHI-110001.

5 UNION OF INDIA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE,
NORTH BLOCK,
NEW DELHI-110001.

R5 BY SRI.B.RAMACHANDRAN, CGC
SR.GOVERNMENT PLEADER SRI. MOHAMMED RAFIQ

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 16.10.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. MANIKUMAR, CJ
&
C.K. ABDUL REHIM, J

W.A. No. 2003 of 2019

Dated this the 16th day of October, 2019

JUDGMENT

C.K. Abdul Rehim, J

The writ petitioner is the appellant, challenging judgment of the Single Judge in W.P(C). No.21629 of 2018 dated 11.1.2019. The respondents are the respondents in the writ petition.

2. Ext.P1 order of assessment with respect to the year 2010-11 was challenged in the writ petition on the ground that the proceedings for assessment was initiated beyond the period of limitation stipulated in the Statute. Inter alia, the petitioner challenged constitutional validity of Section 174 of the Kerala State Goods and Services Tax Act, 2017 (herein after referred to as 'the KSGST Act'). The learned Single Judge had disposed of the writ petition by holding that the issue raised squarely stands covered against the appellant, through judgment dated 11.1.2019 in W.P(C). No.11335 of 2018 and connected cases.

3. Learned counsel for the appellant contended that the learned Single Judge had omitted to consider the grounds raised other than constitutional validity of Section 174 of the KSGST Act.

4. Learned Government Pleader appearing on behalf of respondents 1 to 3 had fairly conceded that the question decided in W.P(C). No.11335 of 2018 and connected cases pertains only with respect to the constitutional validity of Section 174 of the KSGST Act. It is also conceded that a good number of writ appeals filed against the said judgment is pending disposal before this Court.

5. Under the above mentioned circumstances, we are of the considered opinion that, remand of the writ petition for a fresh consideration by the learned Single Judge, on questions other than one relating to validity of Section 174 of the KSGST Act, would suffice to meet the ends of justice.

6. Hence the above writ appeal is hereby allowed. The impugned judgment in W.P(C). No.21629 of 2018 dated 11.1.2019 is hereby set aside. The writ petition is restored to the files of this Court. The Registry shall post the writ petition for consideration by the learned Single Judge dealing with the subject matter, as per roster.

Interim order, if any existed as on the date of dismissal of the writ petition shall stand revived and shall continue to be in force.

Sd/-
S. Manikumar,
Chief Justice

Sd/-
C.K. Abdul Rehim,
Judge

sou.