

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

&

THE HONOURABLE MR. JUSTICE R. NARAYANA PISHARADI

WEDNESDAY, THE 12TH DAY OF JUNE 2019 / 22ND JYAISHTA, 1941

WA.No.1367 of 2019

AGAINST THE ORDER/JUDGMENT IN WP(C) 33424/2018 of HIGHCOURT

APPELLANT/PETITIONER:

COOKING SYSTEMS,
II/829, INDUSTRIAL AREA, AROOR-P.O., PIN- 688534,
ALAPPUZHA DISTRICT. (REPRESENTED BY SMT.SINDHU.S,
PARTNER) .

BY ADV. SRI.K.N.SREEKUMARAN

RESPONDENTS/RESPONDENTS:

- 1 ASSISTANT COMMISSIONER,
STATE GOODS AND SERVICES TAX DEPARTMENT, SPECIAL
CIRCLE, ALAPPUZHA- 688001.
- 2 COMMISSIONER OF STATE TAXES,
TAX TOWER, KARAMANA, THIRUVANANTHAPURAM- 695002.
- 3 STATE OF KERALA,
REPRESENTED BY IT'S SECRETARY TO TAXES,
SECRETARIAT, THIRUVANANTHAPURAM- 695002.

SR.GP-SRI.V.K.SHAMSUDHEEN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 12.06.2019, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:

**C.K. ABDUL REHIM
&
R. NARAYANA PISHARADI, JJ.**

W.A No. 1367 of 2019

Dated this the 12th day of June, 2019

JUDGMENT

Abdul Rehim,J

The petitioner in WP(C) No. 33424/2018 is in appeal against dismissal of the writ petition, through the judgment dated 24.01.2019. The respondents herein are the respondents in the writ petition.

2. Ext.P1 order of assessment with respect to the year 2011-12 was under challenge in the writ petition, mainly contending that the order is unsustainable because the proceedings was initiated beyond the time limit stipulated in Section 25(1) of the Kerala Value Added Tax Act ('KVAT Act' for short). Inter alia, the appellant challenged the constitutional validity of Section 174 of the Kerala State Goods and Service Tax Act ('KSGST Act'). The writ petition was dismissed along with a batch of other cases by holding that the issue involved stands squarely covered against the petitioner through the judgment in WP(C) No. 11335/2018 and connected cases, dated

11.01.2019.

3. Learned counsel for the appellant contended that the judgment in WP(C) No. 11335/2018 and connected cases only deals with validity of Section 174 of the KSGST Act and that the learned Single Judge had omitted to consider the other grounds raised, including the question of limitation under Section 25(1) of the KVAT Act. Learned Government Pleader appearing for the respondents fairly conceded that the judgment in WP(C) No. 11335/2018 deals only with the question regarding validity of Section 174. It is also conceded that a large number of writ appeals arising from the said judgment is pending disposal before this Court.

4. Under the above circumstances, we are of the considered opinion that, a remittance of the writ petition for a fresh consideration and disposal on the grounds raised other than validity of Section 174, would suffice to meet the ends of justice.

Hence, the above writ appeal is hereby allowed. The judgment of the Single Judge in WP(C) No. 33424/2018 is hereby set aside. The writ petition is restored on to the files of this Court. The Registry is directed to post the writ petition before the Single Judge dealing with the subject matter, as per the roster, for fresh consideration and disposal as directed above.

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

**Sd/-C.K.ABDUL REHIM ,
JUDGE**

**Sd/- R.NARAYANA PISHARADI,
JUDGE**

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