

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.K.ABDUL REHIM

&

THE HONOURABLE MR. JUSTICE R. NARAYANA PISHARADI

MONDAY, THE 03RD DAY OF JUNE 2019 / 13TH JYAISHTA, 1941

WA.No. 1285 of 2019

AGAINST THE JUDGMENT IN WP(C) 28346/2018 of HIGH COURT

APPELLANT/PETITIONER:

USHA AGENCIES,
XL/7653, CHIDAMBARAM CHAMBERS, DORAISWAMY IYER ROAD,
ERNAKULAM, KOCHI-682035. (REPRESENTED BY SMT.MAY JOY,
PARTNER)

BY ADVS.SRI.K.N.SREEKUMARAN
SRI.N.SANTHOSHKUMAR
SRI.P.J.ANILKUMAR (A-1768)

RESPONDENTS/RESPONDENTS:

- 1 ASSISTANT COMMISSIONER,
STATE GOODS AND SERVICE TAX DEPARTMENT, SPECIAL
CIRCLE-1, THEVARA, ERNAKULAM, KOCHI-682015.
- 2 COMMISSIONER OF STATE TAXES,
TAX TOWER, KARAMANA, THIRUVANANTHAPURAM-695002.
- 3 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO TAXES, SECRETARIAT,
THIRUVANANTHAPURAM-695002.

OTHER PRESENT:

SPL GP (TAXES). SRI. C.E.UNNIKRISHNAN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 03.06.2019, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:

connected cases relates only with respect to constitutional validity of Section 174 of KSGST Act. It is pointed out that the learned Single Judge had omitted to consider the contention raised based on the question of limitation under Section 25(1) of the KVAT Act. The above aspect is fairly conceded by the learned Special Government Pleader(Taxes). It is also conceded that, from the judgment in W.P.(C) No.11335 of 2018 and connected cases, a lot of writ appeals are admitted and pending disposal before this Court.

4. We are of the considered opinion that, the questions raised other than the validity of Section 174 of the KSGST Act need to be considered by the learned Single Judge of course the validity of section 174 will depend upon the final outcome of the writ appeals which are pending. Hence we are of the opinion that a remand of the writ petition for a fresh disposal would suffice to meet the ends of justice.

5. Hence the above appeal is allowed. The impugned judgment in W.P.(C)No.28346 of 2018 is hereby set aside. The Registry is directed to restore the writ petition and post the same before the learned 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 will stand revived and shall continue to be in force.

sd/-

C.K.ABDUL REHIM

JUDGE

sd/-

R. NARAYANA PISHARADI

JUDGE

DST

//True copy//

P.A.To Judge