IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY ,THE 01ST DAY OF FEBRUARY 2019 / 12TH MAGHA, 1940

WP(C).No. 40423 of 2018

PETITIONER/S:

M/S.SINGAPORE CHEMICALS
THANDEKKAD, MUDICKAL P.O., PERUMBAVOOR
REPRESENTED BY E.KJ.KAREEM. MG.PARTNER

BY ADVS.
SRI.P.S.SOMAN
SMT.T.RADHAMANY

RESPONDENT/S:

1 COMMERCIAL TAX OFFICER
2ND CIRCLE, COMMERCIAL TAXES, AT MINI CIVIL STATION, PERUMBAVOOR-683 542

2 THE COMMISSIONER
STATE GOODS AND SERVICE TAX DEPARTMENT, TAX TOWER, KARAMANA P.O., THIRUVANANTHAPURAM-695 001

3 THE SECRETARY
TAXES DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT,THIRUVANANTHAPURAM-695 001

4 CENTRAL BOARD OF EXCISE AND CUSTOMS
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NEW DELHI-110001

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, SC, CENTRAL BOARD OF EXCISE & CUSTOMS

OTHER PRESENT:

GP DR. THUSHARA JAMES.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01.02.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner, a business concern, seeks the following reliefs;

"i) To call for the records leading to the issuance of Exhibit P1 order and issue a writ of certiorari or any other appropriate, writ or order quashing Exhibit P1 assessment order passed for the year 2012-13.

ii) To declare that Clause (d) and (e) of Section 174 of the Kerala Goods and Services Tax Act, 2017 are inconsistent and contradictory with the provisions of Section 19 of the Constitution (One Hundred and First Amendment) Act, 2016 and hence they are ultravires to the Constitution of India.

iii) To declare that the powers under erstwhile Entry 54 do not exist after 15-09-2017 and therefore the provisions of Kerala Value Added Tax Act cannot be enforced after 15-09-2017 so long as the old Entry 54 has not been saved.

(iv) To declare that when provisions of Constitution are inconsistent with the provisions of a statute the constitutional provisions only will prevail and hence Section 174 of the Kerala Goods and Service Tax Act 2017 to the extent to which they are in conflict with Constitution are bad in law.

v) To declare that as Section 19 of the Constitution (One Hundred and First Amendment) Act, 2016 is having supremacy over the rest of the Sections of the Constitution (One Hundred and First Amendment) Act 2016, the provisions passed under Section 174 invoking Article 246A of the Constitution of India is subservient to Section 19 of Constitution (One Hundred and First Amendment) Act, 2016 and so any provision in Section

> 174 of the Kerala Goods and Service Tax Act 2017 which are contrary to Section 19 is unconstitutional."

Both the counsel agree that the issues stand squarely covered against the petitioner by a judgment dated 11th January 2019 in W.P.(C) No.11335 of 2018 and connected cases. I, therefore, dismiss the writ petition applying the ratio of the judgment referred to above.

Sd/-

DAMA SESHADRI NAIDU

JUDGE

das

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE ASSESSMENT ORDER NO.32151337582/212-13 DATED 28.11.2017 ISSUED BY THE 1ST RESPONDENT**
EXHIBIT P2	**TRUE COPY OF THE INTERIM ORDER PASSED BY THIS HON'BLE COURT IN W.P(C) NO.11335/2018 DATED 04.04.2018**