IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY,THE 23RD DAY OF JANUARY 2019 / 3RD MAGHA, 1940

WP(C).No. 590 of 2019

PETITIONER/S:

V. VIJIN,
AGED 29 YEARS
PROPRIETOR, M/S S V SANITATIONS, NEAR PWD REST HOUSE,
SATHRAM JN, NEDUMANGAD P.O., THIRUVANANTHAPURAM.

BY ADVS.
SRI.P.S.SOMAN
SMT.T.RADHAMONY
SRI.K.SUNDAR
SRI.V.SATHEESH (S-3495)

RESPONDENT/S:

1 STATE TAX OFFICER,
STATE GOODS AND SERVICE TAX DEPARTMENT, NEDUMANGAD,
THIRUVANANTHAPURAM-695541.

2 THE COMMISSIONER,
STATE GOODS AND SERVICE TAX DEPARTMENT, TAX TOWER,
KARAMANA P.O., THIRUVANANTHAPURAM-695002.

3 THE SECRETARY,
TAXES DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM-695001.

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

FOR R4, SRI.SREELAL N. WARRIER, SC
GP DR. THUSHARA JAMES.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23.01.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner, a business concern, has sought 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 15.9.2017 and therefore the provisions of Kerala Value Added Tax Act cannot be enforced after 15.9.2017 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,
> and,
> (vi) Pass such other orders as this Hon'ble Court deems justified in the facts and circumstances of the case.”

2. Both counsel agree that the issues stand squarely covered against the petitioner by 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

okb

//True copy// P.A. to Judge

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE ASSESSMENT ORDER NO.32011040755/2012-13 DATED 14.12.2018 ISSUED BY THE 1ST RESPONDENT**
EXHIBIT P2	**TRUE COPY OF THE INTERIM ORDER PASSED BY THIS HON'BLE COURT IN WPC.11335/2018 DATED 4.4.2018**