P.T.Varghese, vs the Assistant Commissioner of State Tax,

P.T.Varghese, vs the Assistant Commissioner of State Tax,

SooperKanoon Citation : sooperkanoon.com/1291221

Court : Kerala

Decided On : Jul-31-2024

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : WP(C)/8766/2021

Appellant : P.T.Varghese,

Respondent : The Assistant Commissioner of State Tax,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. WEDNESDAY, THE 31ST DAY OF JULY 2024 / 9TH SRAVANA, 1946 WP(C) NO. 8766 OF 2021 PETITIONER/S: P.T.VARGHESE,AGED 62 YEARS PROPRIETOR, M/S.ANNA POULTRY FARM, KOMBODINJAMAKKAL, THRISSUR BY ADVS. K.SRIKUMAR (SR.) K.MANOJ CHANDRAN RESPONDENT/S: 1 THE ASSISTANT COMMISSIONER OF STATE TAX, SPECIAL CIRCLE, THRISSUR-680001 2 THE DEPUTY COMMISSIONER OF STATE TAX, THRISSUR 680001 SMT. THUSHARA JAMES (SR GP) THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 8766

JUDGMENT

The writ petition has been filed seeking the following reliefs:-

> A) To issue a writ of mandamus directing the 1 st respondent to refund the excess amount to the petitioner as shown in Ext.P-1 and P-2 assessment orders for the years 2006-07 and 2007-08 with interest as contemplated under Section 89(4) of the KVAT Act. B) To pass such other orders, which in the circumstances of this case, this Honble Court deems fit.

2. Learned Senior Government Pleader submits that the amount of refund has already been granted to the petitioner by

order dated 29.09.2022.

3. Learned counsel appearing for the petitioner would

submit that the refund was granted without interest and that the petitioner has raised a specific claim for interest in Ext.P4 representation. He submits that the claim for interest may be directed to be considered by the competent authority.

4. Having heard the learned counsel appearing for the

petitioner and the learned Senior Government Pleader and having regard to the facts and circumstances of the case, the writ petition will stand disposed of, directing the 1 st respondent to consider Ext.P4 in so far as it relates to the claim for interest on WP(C) NO. 8766 OF 2021 3 the amount refunded to the petitioner through order dated 29.09.2022 and take a decision on the petitioners claim for interest, in accordance with the law, within a period of two months from the date of receipt of a certified copy of this judgment. I make it clear that I have not expressed any opinion on the merits of the petitioners claim. Sd/- GOPINATH P. JUDGE ajt WP(C) NO. 8766 OF 2021 4 APPENDIX OF WP(C) 8766/2021

PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2006-07 DATED 28.7.2018 EXHIBIT P1 A TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2007-08 DATED 28.7.2018 EXHIBIT P2 TRUE COPY OF THE ORDER DATED 28.6.2019 EXHIBIT P3 TRUE COPY OF THE SAID ORDER DATED 28.10.2019 IN OTR (VAT) NO.55/2019. EXHIBIT P3 A TRUE COPY OF THE SAID ORDER DATED 28.10.2019 IN OTR (VAT) NO.66/2019. EXHIBIT P4 TRUE COPY OF THE LETTER DATED 9.12.2020