The Assessing Officer vs Indofrench Shellfish Company (P) Ltd.

The Assessing Officer vs Indofrench Shellfish Company (P) Ltd.

SooperKanoon Citation : sooperkanoon.com/1296263

Court : Kerala

Decided On : Apr-09-2024

Judge : Honourable Mr. Justice Amit Rawal,Honourable Mrs. Justice C.S. Sudha

Appeal No. : WA/1665/2019

Appellant : The Assessing Officer

Respondent : Indofrench Shellfish Company (P) Ltd.

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 987 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 28.05.2018 IN WP(C) NO.30322 OF 2010 OF HIGH COURT OF KERALA APPELLANTS:- [RESPONDENTS 1,2,& 4 IN THE WP(C)] 1 STATE OF KERALA, REPRESENTED BY ITS SECRETARY, LABOUR AND WELFARE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM. 2 THE SECRETARY, FISHERIES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM. 3 THE DIRECTOR OF FISHERIES, VIKAS BHAVAN, THIRUVANANTHAPURAM. SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER(TAXES) SRI. ARUN AJAY

SHANKAR - SENIOR GOVERNMENT PLEADER RESPONDENTS:-[PETITIONER & 3rd RESPONDENT IN THE WP(C)] 1 SEAFOOD EXPORTERS ASSOCIATION OF INDIA (KERALA REGION), SEAFOOD HOUSE, WILLINGDON ISLAND, COCHIN-682 003, REPRESENTED BY ITS PRESIDENT MR. K.G.LAWRANCE.

2 THE KERALA FISHERMAN WELFARE FUND BOARD, REPRESENTED BY ITS CHAIRMAN, THIRUVANANTHAPURAM. BY ADVS. SRI.ASOK M.CHARIYAN, SC, KFWFB Joe J Uruvath SABIR N.S.(K/1554/2020) PREMJIT NAGENDRAN ERNAKULAM THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 944 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 19.09.2018 IN WP(C) NO.22915 OF 2010 OF HIGH COURT OF KERALA APPELLANTS:-[RESPONDENTS 1,2,4&5 IN THE W.P(C)] 1 STATE OF KERALA, REPRESENTED BY SECRETARY, LABOUR AND WELFARE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM 2 THE STATE OF KERALA, REPRESENTED BY THE SECRETARY, FISHERIES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM 3 THE DIRECTOR OF FISHERIES, VIKAS BHAVAN, THIRUVANANTHAPURAM 4 THE ASSESSING OFFICER AND DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA. SRI. MUHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENTS:-[PETITIONER AND 3rd RESPONDENT IN THE W.P.(C)] 1 COCHIN FROZEN FOOD EXPORTS PVT.LTD, AROOKUTTY FERRY ROAD, AROOR P.O., ALAPPUZHA DISTRICT-688534, REPRESENTED BY ITS MANAGING DIRECTOR, K PRABHAKARAN. 2 THE KERALA FISHERMEN'S WELFARE FUND BOARD, REPRESENTED BY ITS CHAIRMAN, THIRUVANANTHAPURAM-695001. BY ADVS. Joe J Uruvath SABIR N.S.(K/1554/2020) THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON

14.02.2024, ALONG WITH WA.987/2019, 955/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 955 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 28.05.2018 IN WP(C) NO.31974 OF 2010 OF HIGH COURT OF KERALA APPELLANTS:[RESPONDENTS 1,2,4&5 IN THE W.P.(C)] 1 THE STATE OF KERALA REPRESENTED BY ITS SECRETARY, LABOUR AND WELFARE DEPARTMENT, SECRETARIAT,THIRUVANANTHAPURAM, PIN-695001. 2 THE SECRETARY, FISHERIES DEPARTMENT,SECRETARIAT, THIRUVANANTHAPURAM,PIN-695001. 3 THE DIRECTOR OF FISHERIES, VIKAS BHAVAN, THIRUVANANTHAPURAM, PIN-695001. 4 THE ASSESSING AUTHORITY AND DEPUTY DIRECTOR OF FISHERIES, O/o THE DIRECTOR OF FISHERIES, KOLLAM,PIN-691001. BY SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENTS:[PETITIONERS AND 3RD RESPONDENT IN THE W.P.(C)] 1 MANGALA MARINE EXIM INDIA (P) LTD. CCXVI/368, BHAT MEMORIAL BUILDING, THOPPUMPADY, COCHIN-682005, REP. BY ITS DIRECTOR, MR.M.R.ASHOK BHAT.

2 KINGS MARINE PRODUCTS, ULIYAKOVIL,KOLLAM-9, REP BY ITS CHIEF EXECUTIVE,MR.MANOJ.T.VARGHESE. 3 THE KERALA FISHERMAN WELFARE FUND BOARD, REPRESENTED BY ITS CHAIRMAN, THIRUVANANTHAPURAM,PIN-691001. BY ADVS. SRI.PREMJIT NAGENDRAN SRI.ASOK M.CHARIYAN, SC, KFWFB JOE J URUVATH, SC, KERALA FISHERMEN WELFARE BOARD THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024 , ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1048 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 03.07.2018 IN WP(C) NO.3773 OF 2012 OF HIGH COURT OF KERALA. APPELLANTS:[1ST RESPONDENT & ADDL. R.3 IN THE W.P.(C)] 1 THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, AZHEEKODE P.O., THRISSUR, PIN-680 673. 2 THE DISTRICT COLLECTOR CIVIL STATION, THRISSUR. BY SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENTS:[PETITIONER & ADDL. R2 IN THE W.P.(C)] 1 SAFA ENTERPRISES BUILDING NO.450A, LIGHT HOUSE JUNCTION, AZHEEKODE, THRISSUR-680 673, REPRESENTED BY ITS MANAGING PARTNER, MR.ABDUL JALEEL. 2 THE KERALA FISHERMEN'S WELFARE FUND BOARD REPRESENTED BY ITS COMMISSIONER, THRISSUR-02. BY ADVS. Joe J Uruvath SABIR N.S.(K/1554/2020) THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1441 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.24596 OF 2015 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM-691 013. SRI.MPHAMMED RAFEEQ - SPL. GP RESPONDENT:-[PETITIONER IN THE W.P.(C)] M/S SAN MARINE EXPORTS SAKTHIKULANGARA, KOLLAM-691 581, REPRESENTED BY ITS PARTNER, MR. SOLOMON ANTONY. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1445 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.22006 OF 2012 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM-691 002. SRI. MOHAMMED RAFEEQ- SPECIAL GOVERNMENT PLEADER RESPONDENT:-[PETITIONER IN THE W.P.(C)] M/S CAPITHAN EXPORTING COMPANY PORT ROAD, SAKTHIKULANGARA, KOLLAM-691581, REPRESENTED BY ITS GENERAL MANAGER S.ALWYN. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1452 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.22055 OF 2012 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM-691582. SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENT:-[PETITIONER IN THE W.P.(C)] M/S.KING FISHERIES (P) LIMITED NEENDAKARA P.O, KOLLAM-691582, REPRESENTED BY ITS AUTHORISED SIGNATORY MR.TERENCE STANLEY. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1456 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.22054 OF 2012 OF HIGH COURT OF KERALA APPELLANT:[RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM-691 582 BY SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENT:[PETITIONER IN THE W.P.(C)] M/s. POYILKADA FISHERIES (P)LTD. P.B. NO. 41, PARAMESWAR NAGAR, KOLLAM-691 001, REPRESENTED BY ITS MANAGER, MR. REGI ASOK. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024 , ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON THE 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1457 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.22035 OF 2012 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM-691582. SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENT:-[PETITIONER IN THE W.P.(C)] M/S INDIAN AQUATIC PRODUCTS SAKTHIKULANGARA,KOLLAM-691581, REPRESENTED BY ITS MANAGING PARTNE,MR.PHILOMENE ANTONY. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1464 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.17885 OF 2015 OF HIGH COURT OF KERALA

APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE ASSESSING OFFICER, OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ERNAKULAM DIVISION, DR.SALIM ALI ROAD, COCHIN-682018. BY SRI.MOHAMMED RAFEEQ-SPECIAL GOVERNMENT PLEADER RESPONDENT:-[PETITIONER IN THE W.P.(C)] AQUA SEA FOOD (INDIA) PVT. LTD., NEAR EDAKOCHI-AROOR BRIDGE, COCHIN-682006, REPRESENTED BY ITS MANAGING DIRECTOR ABDUL ZIYAD. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1482 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.24592 OF 2015 OF HIGH COURT OF KERALA APPELLANT:[RESPONDENT IN THE W.P.(C)] THE ASSESSING OFFICER AND DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM - 691013. BY SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENT:[PETITIONER IN THE W.P.(C)] M/s.BABY MARINE (EASTERN) EXPORTS KALLUVILA, THANKASSERY, KOLLAM, PIN- 691007, REPRESENTED BY ITS GENERAL MANAGER JOHN GEORGE BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024 , ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1495 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.27939 OF 2012 OF HIGH COURT OF KERALA APPELLANT:[RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM-691 582. BY SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENT:PETITIONER IN THE W.P.(C)] M/S. SAN MARINE EXPORTS SAKTHIKULANGARA, KOLLAM-691 581 REPRESENTED BY ITS MANAGING PARTNER MR. SOLOMON ANTONY. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024 , ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1497 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.22005 OF 2012 OF HIGH COURT OF KERALA APPELLANT:- (RESPONDENT IN THE W.P.(C)) THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM -691 001 SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENT:- (PETITIONER IN THE W.P.(C)) M/S. BABY MARINE EXPORTS KALLUVILA, THANGASSETRI, KOLLAM, REPRESENTED BY ITS MANAGING PARTNER, MR.K.C.BABU, PIN-691 007 BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1514 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.15537 OF 2015 OF HIGH COURT OF KERALA APPELLANT:- (RESPONDENT IN THE W.P.(C)) THE ASSESSING OFFICER OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ERNAKULAM DIVISION, DR. SALIM ALI ROAD, COCHIN - 682 018 BY SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENTS:- (PETITIONERS IN THE W.P.(C)) 1 MANAGALA MARINE EXIM INDIA (P) LTD. BHAT MEMORIAL BUILDING, THOPPUMPADY, KOCHI - 682 005, REPRESENTED BY DIRECTOR, MR. PREMACHANDRA BHAT. 2 SAMARAT MIDDLE EAST EXPORTS (P) LTD. KOCHI - 682 005, REPRESENTED BY ITS DIRECTOR, RAJU N.V. 3 A.S. MARINE INDUSTRIES (P) LTD., CC 18/263, NADAKKAVU ROAD, KOCHI - 682 006, REPRESENTED BY ITS MANAGING DIRECTOR, K.E. SULAIMAN 4 CAP SEAFOODS PVT. LTD., VYPEEN - 682 510, REPRESENTD BY ITS DIRECTOR, SHAKKEEL MOHAMMED IQBAL 5 GEO SEAFOODS, PALLICHAL ROAD, PALLURUTHY, COCHIN - 682 006, REPRESENTED BY ITS MANAGING PARTNER, K.G. LAWRENCE 6 SAFERA FOODS INTERNATIONAL, IX/477, KANNAMALY P.O., COCHIN - 6820 08, REPRESENTED BY ITS MANAGING PARTNER, FEMINA V.S.

7 EMERALD EXPORTS AND IMPORTS, EMERALD HOUSE, DOOR NO. CC XIII/1380, S.P. PURAM ROAD, PALLURUTHY, P.O., COCHIN - 682 006, REPRESENTED BY ITS PARTNER CHAKOCHAN P.C. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF

APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1520 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.25445 OF 2012 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ERNAKULAM-682 031 BY SRI. MUHAMMED RAFEEQ-SPECIAL GOVERNMENT PLEADER RESPONDENT:-[PETITIONER IN THE W.P.(C)] M/S.ABAD FISHERIES (P) LTD. ABAD BUILDINGS, JEW TOWN ROAD, COCHIN-682002, REPRESENTED BY ITS MANAGING DIRECTOR MR.ANWAR HASHIM BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1522 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.25443 OF 2012 OF HIGH COURT OF KERALA APPELLANT:-(RESPONDENT IN THE W.P.C) THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ERNAKULAM 682 031. BY SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENT/PETITIONER IN THE W.P.C: M/S.BABY MARINE INTERNATIONAL, THOPPUMPADY, COCHIN 682 005, REPRESENTED BY ITS MANAGING PARTNER, MR. ALEX.K. NINAN. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF

APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1545 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.21968 OF 2012 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM-691001. BY SRI. MOHAMMED RAQFEEQ- SPECIAL GOVERNMENT PLEADER RESPONDENT:-[PETITIONER IN THE W.P.(C)] M/S.KINGS MARINE PRODUCTS ULIYAKOVIL, KOLLAM, REPRESENTED BY ITS CHIEF EXECUTIVE, MR.MANOJ T.VARGHESE, PIN-691019. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1546 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.16391 OF 2015 OF HIGH COURT OF KERALA

APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE ASSESSING OFFICER OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ERNAKULAM DIVISION, DR.SALIM ALI ROAD, COCHIN-682018. BY ADV SRI.MOHAMMED RAFEEQ- SPECIAL GOVERNMENT PLEADER RESPONDENT:-[PETITIONER IN THE W.P.(C)] LOURDE EXPORTS, DOOR NO.2659 J, 1ST FLOOR, VIDYA NAGAR MAIN ROAD, VIDYA NAGAR, COCHIN-682020, REPRESENTED BY ITS MANAGER GEO JACOB. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1550 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04/07/2018 IN WP(C) NO.17891 OF 2015 OF HIGH COURT OF KERALA APPELLANTS:-[RESPONDENT IN THE W.P.(C)) THE ASSESSING OFFICER, OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ERNAKULAM DIVISION, DR. SALIM ALI ROAD, COCHIN- BY SPECIAL GOVERNMENT PLEADER SRI.MOHAMMED RAFEEQ RESPONDENTS:(PETITIONERS IN THE W.P.(C)) 1 S.H.MARINE EXIM BY ITS PARTNER SHIRAJ V.H. 2 PARAMOUNT SEAFOODS, XVI/1373 E, MEHRAB BUILDING, PATEL MARKET ROAD, COCHIN-682 005, REPRESENTED BY ITS PARTNER SHIRAJ V.H. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES,THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1551 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.15875 OF 2015 OF HIGH COURT OF KERALA

APPELLANT:- [RESPONDENTS IN THE W.P.(C)] THE ASSESSING OFFICER, OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ERNAKULAM DIVISION, DR. SALIM ALI ROAD, COCHIN-682018. BY SRI.MOHAMMED RAFEEQ-SPECIAL GOVERNMENT PLEADER RESPONDENT:- [PETITIONER IN THE W.P.(C)] PREMIER SEAFOODS EXIM (P) LTD EP X/289, ERAMALEELOOR, ALLEPPY DISTRICT-688527, REPRESENTED BY ITS DIRECTOR, AHMED AHZAR. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE

FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1578 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.16917 OF 2015 OF HIGH COURT OF KERALA APPELLANT:-(RESPONDENT IN THE W.P.(C)) THE ASSESSING OFFICER, OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ERNAKULAM DIVISION, DR. SALIM ALI ROAD, COCHIN-682 018 BY SPECIAL GOVERNMENT PLEADER SRI.MOHAMMED RAFEEQ RESPONDENT:-(PETITIONER IN THE W.P.(C)) COCHIN COSMOS FOODS LTD. 682 005, REPRESENTED BY ITS DIRECTOR ALEX NINAN. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1665 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.18887 OF 2015 OF HIGH COURT OF KERALA

APPELLANT:- [RESPONDENT IN THE W.P.(C)] THE ASSESSING OFFICER OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ERNAKULAM DIVISION, DR.SALIM ALI ROAD, COCHIN-682018. BY SRI. MOHAMMED RAFEEQ-SPECIAL GOVERNMENT PLEADER RESPONDENTS:- [PETITIONERS IN THE W.P.(C)] 1 INDOFRENCH SHELLFISH COMPANY (P) LTD., COCHIN-682002, REPRESENTED BY ITS MANAGING DIRECTOR, K.MADHUKUMAR.

2 K.MADHUKUMAR, PROPRIETOR, VIGNESH FOODS, ANDI ACHARI ROAD, COCHIN-682002 BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1749 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.26949 OF 2015 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE WP(C)] THE ASSESSING OFFICER AND THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA - 688 001. SPECIAL GOVT. PLEADER MUHAMMED RAFEEQ RESPONDENT:-[PETITIONER IN THE WP(C)] M/S.DOLPHIN WIRES (P) LTD. AP II/722, INDUSTRIAL ESTATE, AROOR-688 534, REPRESENTED BY ITS MANAGING DIRECTOR K.A.JABIR BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1750 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.26943 OF 2015 OF HIGH COURT OF KERALA APPELLANT:- (RESPONDENT IN THE W.P.(C)) THE ASSESSING OFFICER AND THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES,

ALAPPUZHA - 688 001. BY SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENT:-(PETITIONER IN THE W.P.(C)) M/S.INTERNATIONAL FREEZE FISH EXPORTS, AP II/810, C.I.E., AROOR - 688 534, REPRESENTED BY ITS MANAGING R.VAMANA KINI. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.20204 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1767 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.27270 OF 2015 OF HIGH COURT OF KERALA

APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE ASSESSING OFFICER AND THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA-688 001. BY SRI. MUHAMMED RAFEEQ-SPECIAL GOVERNMENT PLEADER RESPONDENT:[PETITIONER IN THE W.P.(C)] M/S FRIENDS MARINE INDUSTRIES XIV/465, EZHUPUNNA, ALAPPUZHA-688 548, REPRESENTED BY ITS PARTNER. A.S. MOHAMMED. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1768 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.29926 OF 2015 OF HIGH COURT OF KERALA APPELLANT:- (RESPONDENT IN THE W.P.(C)) THE

ASSESSING OFFICER AND THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA 688 001. BY SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENT:- (PETITIONER IN THE W.P.(C)) M/S. INTERFISH REPRESENTED BY ITS PARTNER P.A MINHAS BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1770 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.28636 OF 2015 OF HIGH COURT OF KERALA APPELLANT:- (RESPONDENT IN THE W.P.(C)) THE ASSESSING OFFICER AND THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA-688001. BY SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENT:- (PETITIONER IN THE W.P.(C)) M/S.GEO AQUATIC PRODUCTS PVT.LTD. VELUTHULLY ROAD, CHANDIROOR-688547, REPRESENTED BY ITS MANAGING DIRECTOR, C.A SALIM. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1773 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 4.07.2018 IN WP(C) NO.27271 OF 2015 OF HIGH

COURT OF KERALA APPELLANT:-(RESPONDENT IN THE W.P.C)] THE ASSESSING OFFICER AND THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA-688 001. BY SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENT:-[PETITIONER IN THE W.P.C)] M/S INTERSEAS REPRESENTED BY ITS PARTNER NOBY KARIKKASERRY. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1774 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 4.07.2018 IN WP(C) NO.5863 OF 2014 OF HIGH COURT OF KERALA APPELLANT:-(RESPONDENT IN THE W.P.C) THE ASSESSING OFFICER AND THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA-688001. BY SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENT:-(PETITIONER IN THE W.P.C) ABAD SEAFOOD PROCESSORS, AROOR.P.O., CHERTHALA ABAD BUILDING, PIN-688534, REPRESENTED BY ITS MANAGER FARAZ JAVEED. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1787 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.30313 OF 2015 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR AND THE ASSESSING OFFICER, OFFICE OF THE FISHERIES DEPUTY DIRECTOR,ALAPPUZHA-688001. BY SPECIAL GOVERNMENT PLEADER MOHAMEED RAFEEQ RESPONDENT:[PETITIONER IN THE W.P.(C)] ACCELERATED FREEZE DRYING COMPANY LTD. EP IV/513,EZHUPUNNA,ALAPPUZHA, REPRESENTED BY ITS VICE PRESIDENT S.P.KAMATH. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1791 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.26283 OF 2015 OF HIGH COURT OF KERALA APPELLANT:- (RESPONDENT IN THE W.P.(C)) THE ASSESSING OFFICER AND THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA-688001 BY SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENT:- (PETITIONER IN THE W.P.(C)) FRONTLINE EXPORTS (P) LTD INDUSTRIAL ESTATE, AROOR-688534, REPRESENTED BY ITS MANAGING DIRECTOR M.S.ANAZ

BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1803 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.25444 OF 2012 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ERNAKULAM-682031. SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENT:-[PETITIONER IN THE W.P.(C)] M/S.ABM MARINE PRODUCTS REPRESENTED BY ITS PARTNER MR. K.MADHUKUMAR. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON

14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1804 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.26329 OF 2015 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE ASSESSING OFFICER AND THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA-688001. SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENTS [PETITIONERS IN THE W.P.(C)]: 1 M/S A.M.FISHERIES XVIII/378, KAKKAZHOM, VANDANAM P.O., ALAPPUZHA-688005, REPRESENTED BY ITS PARTNER M.NIZAM. 2 PREMIER MARINE FOODS, NIZAM MANZIL, VANDANAM P.O., ALAPPUZHA-688005, REPRESENTED BY ITS PARTNER M.NIZAM. 3 PREMIER EXPORTS INTERNATIONAL, AP X/453, CHANIROOM, ALAPPUZHA-688535, REPRESENTED BY ITS PARTNER M.NIZAM. BY ADV SRI.PREMJIT

NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1805 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.26315 OF 2015 OF HIGH COURT OF KERALA

APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE ASSESSING OFFICER AND THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA - 688 001 BY SRI. MUHAMMED RAFEEQ-SPECIAL GOVERNMENT PLEADER RESPONDENT:-[PETITIONER IN THE W.P.(C)] M/S.MOON FISHERIES (INDIA) PVT. LTD. ALAPPUZHA - 688 534, REPRESENTED BY ITS MANAGING DIRECTOR GEORGE P.KORAH BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1806 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.26927 OF 2015 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P(C)] THE ASSESSING OFFICER AND THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA-688 001 BY SRI. MUHAMMED RAFEEQ-SPECIAL GOVERNMENT PLEADER RESPONDENT:-[PETITIONER IN THE W.P.(C)] M/S. PREMIER MARINE EXPORTS AX/456,CHANDIROOR, ALAPPUZHA, REPRESENTED BY ITS PARTNER

M.NIZAM BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1810 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.26484 OF 2012 OF HIGH COURT OF KERALA APPELLANT:- (RESPONDENT IN THE W.P.(C)) THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM-691582. BY SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENT:-(PETITIONER IN THE W.P.(C)) M/S. ROYAL OCEANS AP XII/528, OLD NH CHANDIROOR, AROOR, ALLEPPEY-688547, KERALA, A PARTNERSHIP FIRM HAVING ITS REGISTERED OFFICE AT KALLUVILA, THANGASSETRI, KOLLAM, REPRESENTED BY ITS MANAGING PARTNER, MR. JACOB K BABU. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1812 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.16622 OF 2015 OF HIGH COURT OF KERALA APPELLANT:[RESPONDENT IN THE W.P.(C)] THE ASSESSING OFFICER OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ERNAKULAM DIVISION, DR. SALIM ALI ROAD, COCHIN- 682018. BY SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ

RESPONDENT:[PETITIONER IN THE W.P.(C)]

FREEZE ENGINEERING INDUSTRIES (P) LTD. XVI/1109, COCHIN FISHERIES HARBOUR, THOPPUMPADY, COCHIN-682005, REPRESENTED BY ITS MANAGER, RAGHU NARAYAN POTTY. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1814 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.28466 OF 2015 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE ASSESSING OFFICER AND THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA-688 001. BY SRI.MOHAMMED RAFEEQ - GP RESPONDENT:-[PETITIONER IN THE W.P.(C)] P.A.MINHAS PROPRIETOR, PEARL COAST MARINE FOODS, APX/763F, CHANDIROOR, ALAPPUZHA-688 547. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1815 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.17150 OF 2015 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE ASSESSING OFFICER, OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ERNAKULAM DIVISION, DR.SALIM ALI ROAD, COCHIN-682 018. BY SPL. GP-

MOHAMMED RAFEEQ RESPONDENT:-[PETITIONER IN THE W.P.(C)] HEIPLOEG SEAFOODS INDIA PRIVATE LIMITED KAY KAY HOUSE, 39/116, MULASHERRY CANAL ROAD, COCHIN-682 011, REPRESENTED BY ITS DIRECTOR, VIVEK VIJAYKUMAR. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1818 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.24331 OF 2014 OF HIGH COURT OF KERALA APPELLANT:- {RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM-691 582. BY SRI.MUHAMMED RAFEEQ- SPECIAL GOVERNMENT PLEADER RESPONDENT:[PETITIONER IN THE W.P.(C)] M/S INDIAN ACQUATIC PRODUCTS SAKTHIKULANGARA, KOLLAM-691 581, REPRESENTED BY ITS PARTNER MR. PHILOMENE ANTONY. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1821 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.9236 OF 2015 OF HIGH COURT OF KERALA APPELLANT:- (RESPONDENT IN THE W.P.(C)) THE ASSESSING OFFICER, OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ERNAKULAM DIVISION, DR.SALIM ALI ROAD, COCHIN-682018.

BYSRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENTS:- (PETITIONERS IN THE W.P.(C)) 1 PARAGON SEAFOODS (P) LTD., P.B.NO.817, THOPPUMPADY, KOCHI-682005, REPRESENTED BY ITS MANAGING DIRECTOR, JOSEPH ANTONY. 2 ABAD FISHERIES (P) LTD., ABAD BUILDING, KOCHUANGADI, COCHIN-682002, REPRESENTED BY ITS DIRECTOR, JAVED HASHIM. 3 ABAD C-FOOD CANNING CO.(P)LTD., ABAD BUILDING, KOCHANGADI, COCHIN-682002, REPRESENTED BY ITS DIRECTOR, JAVED HASHIM. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1822 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 4.07.2018 IN WP(C) NO.24683 OF 2014 OF HIGH COURT OF KERALA APPELLANT:-(RESPONDENT IN THE W.P.C)] THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM-691 582 BY SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENT:-[PETITIONER IN THE W.P.C] M/S. VERONICA MARINE EXPORTS (P) LTD PUTHETHORA, NEENDAKARA POST, KOLLAM-691 582, REPRESENTED BY ITS GENERAL MANAGERS..ALWYN BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1825 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 4.07.2018 IN WP(C) NO.26454 OF 2015 OF HIGH COURT OF KERALA APPELLANT:-(RESPONDENT IN THE W.P.C: THE ASSESSING OFFICER AND THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA-688 001. BY SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENT:-(PETITIONER IN THE W.P.C): M/S HIGH SEAS EXIM AP X/102, CHANDIROOR, ALAPPUZHA-688 547, REPRESENTED BY ITS PARTNER SULFIKAR V.K.

BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1838 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.17712 OF 2015 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE ASSESSING OFFICER, OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ERNAKULAM DIVISION, DR.SALIM ALI ROAD, COCHIN-682 018. BY SPL. GP- MUHAMMED RAFEEQ RESPONDENT:-[PETITIONER IN THE W.P.(C)] JIS INTERNATIONAL EXPORTS PVT.LTD. COCHIN-682 036, REPRESENTED BY ITS MANAGING DIRECTOR DOMINIC SEBASTIAN. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1839 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.26926 OF 2015 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE ASSESSING OFFICER AND DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA - 688 001. BY SPL. GP- MOHAMMED RAFEEQ RESPONDENT:-[PETITIONER IN THE W.P.(C)] M/S. CHERUKATTU INDUSTRIES (MARINE DIVISION), AROOKUTTY FERRY ROAD, AROOR 688 434 REPRESENTED BY ITS MANAGING PARTNER C.A. NAZER. THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1850 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.6425 OF 2017 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM - 691 582 BY SPL. GP - MOHAMMED RAFEEQ RESPONDENT:-[PETITIONER IN THE W.P.(C)] CHARLY FISHERIES, MAMACHAN TURUTHU, NEENDAKARA, KOLLAM - 691 582, REPRESENTED BY ITS MANAGER, MR. THULASIDHARAN PILLAI BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1852 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.20802 OF 2015 OF HIGH COURT OF KERALA APPELLANT:- (RESPONDENT IN THE W.P.(C)) THE ASSESSING OFFICER, OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ERNAKULAM DIVISION, DR.SALIM ALI ROAD, COCHIN- 682018. BY SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENT:- (PETITIONER IN THE W.P.(C))

CHOICE CANNING COMPNAY, (A DIVISION OF CHOICE TRADING CORPORATION PRIVATE LIMITED), 21/1391-A, THANGAL NAGAR, NEAR PASHNITHODU PALAM, PALLURUTHY, COCHIN- 682006, REPRESENTED BY ITS DIRECTOR P.BALACHANDRAN. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1861 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.913 OF 2014 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE ASSESSING OFFICER OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ERNAKULAM DIVISION, DR. SALIM ALI ROAD, COCHIN 682018. BY SRI.MOHAMMED RAFEEQ- SPECIAL GOVERNMENT PLEADER RESPONDENT:-[PETITIONER IN THE W.P.(C)] ABAD OVERSEAS (P) LTD ABAD BUILDING, KOCHANGADI, KOCHIN-682003, REPRESENTED BY ITS MANAGING DIRECTOR ANWAR HASHIM. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG

WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1870 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.10728 OF 2017 OF HIGH COURT OF KERALA

APPELLANT:- [RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM - 691 581 BY SRI. MUHAMMED RAFEEQ -SPECIAL GOVERNMENT PLEADER RESPONDENT:- [PETITIONER IN THE W.P.(C)] XAVIER LUKE FERNANDEZ PROPRIETOR, LUKE EXPORTS, SHAKTHIKULANGARA, KOLLAM - 691 581 BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON

14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1879 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.25486 OF 2012 OF HIGH COURT OF KERALA APPELLANT:- (RESPONDENT IN THE W.P.(C)) THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES,ERNAKULAM-682031 BY SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENT:- (PETITIONER IN THE W.P.(C)) ALAPPAT MARINE PRODUCTS, 6TH FLOOR, HOUSE OF ALAPPATT, M.G ROAD, COCHIN-682 016 REPRESENTED BY ITS POWER OF ATTORNEY MR.

SURESH K.N BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1880 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.13768 OF 2017 OF HIGH COURT OF KERALA APPELLANT:-(RESPONDENT IN THE W.P.(C)) THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM-691581. BY SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENT:-(PETITIONER IN THE W.P.(C)) M/S.AVLA NETTOS EXPORTS, SAKTHIKULANGARA, KOLLAM-691581, REPRESENTED BY ITS MANAGER, MR.SURESH BABU. BY ADV. SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1883 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.26448 OF 2015 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE ASSESSING OFFICER AND THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA 688 001. SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENT:-[PETITIONER IN THE W.P.(C)] G.RATNAKARAN PILLA PROPRIETOR, R.K EXPORTS, VIII/249 EZHUPUNNA P.O, CHERTHALA 688 550. BY ADV

SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024,ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1888 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.26437 OF 2015 OF HIGH COURT OF KERALA APPELLANT:- (RESPONDENT IN THE W.P.(C)) THE ASSESSING OFFICER AND THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA-688001. BY SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENTS:- (PETITIONER IN THE W.P.(C)) PREMIER MARINE ENTERPRISES. EP IX/315, ERAMALOOR, ALAPPUZHA-688537, REPRESENTED BY ITS PARTNER AHMED AZHAR. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1917 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.7444 OF 2017 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR OF FISHERIES OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM - 691003. BY SRI.MUHAMMED RAFEEQ-SPECIAL GOVERNMENT PLEADER RESPONDENT:- [PETITIONER IN THE W.P.(C)] M/S.ESMARIO EXPORT ENTERPRISES (P) LTD KAVANAD P. O., KOLLAM - 691003, REPRESENTED BY ITS GENERAL MANAGER, MR. INNOCENT

JOSEPH. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1937 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.37568 OF 2015 OF HIGH COURT OF KERALA APPELLANT:[RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR OF FISHERIES AND ASSESSING OFFICER OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ALAPPUZHA - 688 001 BY SPECIAL GOVERNMENT PLEADER MOHAMMED RAFEEQ RESPONDENT:[PETITIONER IN THE W.P.(C)] M/s. PENVER PRODUCTS PVT. LTD. AP 11/688, INDUSTRIAL ESTATE, AROOR, ALEPPEY - 688 534, REPRESENTED BY ITS GENERAL MANAGER NELSON GEORGE BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024 , ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON THE 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1966 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.37556 OF 2015 OF HIGH COURT OF KERALA APPELLANT:- [RESPONDENT IN THE W.P.(C)] THE DEPUTY DIRECTOR OF FISHERIES AND THE ASSESSING OFFICER OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ALAPPUZHA-688 001 BY SRI.MUHAMMED RAFEEQ -SPECIAL GOVERNMENT PLEADER RESPONDENT:- [PETITIONER IN THE W.P.(C)] THREE STAR MARINE

EXPORTS AROOR, ALLEPPY, REPRESENTED BY ITS MANAGING PARTNER, AHMED KUTTY. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1972 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 19.09.2018 IN WP(C) NO.29178 OF 2015 OF HIGH COURT OF KERALA APPELLANTS:- (RESPONDENTS 1, 2, 4 & 5 IN THE W.P.(C)) 1 STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, LABOUR AND WELFARE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001 2 THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, FISHERIES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001 3 THE DIRECTOR OF FISHERIES, VIKAS BHAVAN, THIRUVANANTHAPURAM, PIN 695001 4 THE ASSESSING OFFICER AND DEPUTY DIRECTOR OF FISHERIES, ALAPPUZHA, PIN-688001 BY SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENTS:- (PETITIONER & 3RD RESPONDENT IN THE W.P.(C)) 1 COCHIN FROZEN FOOD EXPORTS PVT.LTD., AROOKUTTY FERRY ROAD, AROOR.P.O, ALAPPUZHA DISTRICT, PIN-688534, REPRESENTED BY ITS MANAGING DIRECTOR, K.PRABHAKARAN. 2 THE KERALA FISHERMEN'S WELFARE FUND BOARD REPRESENTED BY ITS CHAIRMAN, THIRUVANANTHAPURAM, PIN-695001 BY ADVS. Joe J Uruvath SABIR N.S.(K/1554/2020) THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 1984 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.23798 OF 2014 OF HIGH COURT OF KERALA APPELLANT:- (RESPONDENT IN THE W.P.(C)) THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, KOLLAM-691 582 BY SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENT:-(PETITIONER IN THE W.P.(C)) M/S.POYILAKADA FISHERIES (P) LTD. P.B. NO. 41, PARAMESWAR NAGAR, KOLLAM-691 001, REPRESENTED BY ITS MANAGER-MR. REGI ASOK. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 2066 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.31168 OF 2013 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)] THE ASSESSING OFFICER OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ERNAKULAM DIVISION, DR. SALIM ALI ROAD, COCHIN - 682 018 BY SRI. MUHAMMED RAFEEQ -SPECIAL GOVERNMENT PLEADER RESPONDENT/S:-[PETITIONERS IN THE W.P.(C)] 1 MOON FISHERY (INDIA) PRIVATE LIMITED G-225, 1ST FLOOR, PANAMPAPPLY NAGAR, KOCHI - 682 036, REPRESENTED BY ITS MANAGING DIRECTOR DOMINIC SEBASTIAN.

2 M/S. CHEMMEENS (REGISTERED) CHEMMEENS JUNCTION, KARUVELIPADY, KOCHIN - 682 005, REPRESENTED BY ITS MANAGING PARTNER P.C. CHERIAN 3 SLS EXPORTS PRIVATE LTD., XXII/1377, EDAKOCHI, KOCHIN - 682 010, REPRESENTED BY ITS MANAGER K. VIJAYA KUMAR 4 K.K. LIRAR PROPRIETOR, L.G. SEA FOODS, 18/343, PALLURUTHY

NADA, KOCHIN - 682 006

5 ACCELERATED FREEZE DRYING COMPANY LTD. AMALGAM HOUSE, BRISTOW ROAD, WILLINGDON ISLAND, KOCHIN - 682 003, REPRESENTED BY ITS VICE PRESIDENT, S.P. KAMATH 6 STAR FISH EXPORT 006, REPRESENTED BY ITS MANAGING PARTNER, V. GEORGE JOSEPH 7 NATIONAL SEAFOODS COMPANY 005, REPRESENTED BY ITS MANAGING PARTNER, O.T. ALEXANDER 8 ABAD EXIM PRIVATE LTD., PLOT NO. 31 AN 33, COCHIN SPECIAL ECONOMIC ZONE, KAKKANAD, KOCHIN - 682 030, REPRESENTED BY ITS MANAGING DIRECTOR, ANWAR HASIM 9 K. KRISHNA KUMAR PROPRIETOR, KAY KAY EXPORTS, 39/116, KAY KAY HOUSE, MULASSHARRY CANAL ROAD, KOCHI - 682 011 BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 2112 OF 2019

AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.33902 OF 2015 OF HIGH COURT OF KERALA APPELLANT:- (RESPONDENT IN THE W.P.(C)) THE DEPUTY DIRECTOR OF FISHERIES AND ASSESSING OFFICER, OFFICE OF THE FISHERIES DEPUTY DIRECTOR, ALAPPUZHA-688001. BY SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENT:- (PETITIONER IN THE W.P.(C)) G.K.S BUSINESS ASSOCIATES (P) LTD., GKS COMPLEX, AROOR FERRY ROAD, AROOR-688534, REPRESENTED BY ITS DIRECTOR G. GIRISHANKAR. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 9TH DAY OF APRIL 2024 / 20TH CHAITHRA, 1946 WA NO. 2138 OF 2019 AGAINST THE ORDER/JUDGMENT DATED 04.07.2018 IN WP(C) NO.24348 OF 2012 OF HIGH COURT OF KERALA APPELLANT:-[RESPONDENT IN THE W.P.(C)]

THE DEPUTY DIRECTOR OF FISHERIES, OFFICE OF THE DEPUTY DIRECTOR OF FISHERIES, CALICUT - 673 301. BY SRI. MOHAMMED RAFEEQ - SPECIAL GOVERNMENT PLEADER RESPONDENT:-[PETITIONER IN THE W.P.(C)] M/S. UNIROYAL MARINE EXPORTS LIMITED, REPRESENTED BY ITS CHIEF EXECUTIVE MR.THOMAS T.KOSHY. THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON

14.02.2024, ALONG WITH WA.944/2019 AND CONNECTED CASES, THE COURT ON 09.04.2024 DELIVERED THE FOLLOWING:

JUDGMENT

[WA Nos.987/2019, 944/2019, 955/2019, 1048/2019,

1. Among the captioned writ appeals, WA No.987/2019 is

the lead case arising out in the adjudication of W.P. (C)No.30322/2010 wherein the Association called Seafood Exporters Association of India, Kerala region and other individual exporters altogether had challenged the competence of the State in promulgating an Act called Kerala Fishermens And Allied Workers Welfare Cess Act, 2007, primarily on two grounds:

(i) State did not have the legislative competence to cause a declaration that the exporters of seafood are liable to pay Cess, interest on penalty under the Act.

(ii) There had already been an adjudication on the issue by the Constitutional Bench of the Supreme Court in Koluthara Export v. State of Kerala [2002 (2) SCC 459] whereby provisions of Section 4(2) of Kerala Fishermens Welfare Fund Act, 1985 was held to be unconstitutional.

2. State in the year 1985 had brought into force Kerala

Fishermens Welfare Fund Act, 1985 (hereinafter called the 1985 Act) with objects and reason that the fishermen who belong to weaker section of Society have not been able to achieve the purpose for which earlier schemes were promulgated and the aforementioned Welfare Fund for promotion of the welfare of the fishermen was incorporated. Section 2(a), 2(bb) and 2(d) of the Act defined 'Allied Workers', Contributions and Dealer. The Clauses which are relevant for adjudication of the present intra court appeals are Allied worker, Contribution and Dealer. The same are extracted hereinbelow:

"allied worker" means any person who is engaged mainly in fishery related activities for his livelihood and who does not come under the definition of the term fisherman in clause (e) of section 2 of the Kerala Fisherman's Welfare Societies Act, 1980 (7 of 1981) and includes beach workers, small scale fish distributors, fish curers, peeling workers and small scale processing plant workers, who are not members or not eligible to get membership, in any other Statutory Welfare Scheme. 2(bb) contribution means the sum of money payable to the fund under section 4 ; 2(d). dealer means any person who carries on, within the State of Kerala the business of buying or selling or processing fish or exporting fish (in raw or in processed form) or fish products and includes,

3. Section 4 envisaged the procedure for contribution to the fund. It is extracted hereinbelow:

(1) Every fisherman shall contribute to the Fund every year at such rate, as may be fixed by the Government, from time to time on the recommendation of the Board.

(1A) Every allied worker shall contribute to the Fund, every month, at such rate as may be fixed by the Government from time to time, on the recommendation of the

Board.

(2) A dealer shall contribute to the Fund, every year, one per cent of his sale proceeds in the year

(3) The owner of a fishing vessel of any category,

shall contribute to the Fund every month an amount, at such rate, as may be fixed by the Government from time to time, on the recommendation of the Board to that category of fishing vessel.

(4) The owner of a stakenet or chinanet shall contribute to the Fund, at such rate, as may be fixed by the Government, from time to time, on the recommendation of the Board, for nine months every year.

(5) The owner of a prawn filtration area or a prawn

culture farm or a fish farm shall contribute to the fund every year, at such rate per hectare, as may be fixed by the Government, from time to time, on the recommendation of the Board. Explanation.-For the purposes of this sub-section prawn filtration area means any water logged area, where prawn filtration is carried on Prawn Culture Farm means a farm where prawn, including scampi, are cultured

(5A) In calculating the extent of the area, half hectare and above shall be taken as one hectare and areas below half hectare shall be ignored.

(5B) The owners of fish markets or lessees or licensees or

any person claiming, any right or interest, through such owners, or the owners of the ice plants supplying ice, mainly for the processing of fish and the vehicles engaged, mainly for the transportation of fish, shall contribute to the fund every year, at such rate, as may be fixed the Government, from time to time, on the recommendation of the Board.

(6) A person who employs a fisherman in a fishing vessel shall be liable to pay under sub-section (7) the contribution payable by that fisherman under sub-section (1) after deducting that amount from the wages or other remuneration due to such fisherman.

(7) The contributions shall be paid to the fisheries Officer or to any officer of the Board authorised by the Board in this behalf.

(8) The amount of contribution shall be rounded off to

the nearest rupee and, where such amount contains part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

4. By reading the definition of 'dealer' under Section

4(2) a dealer shall contribute to the fund, every year, one percent(1%) of the sale proceeds in the year. The said provisions of the Act was challenged before Single Bench and Division Bench of High Court whereby the validity of the aforementioned Act was upheld. Matter was taken up before the Supreme Court and was referred to the Constitution Bench as stated supra. The Constitution Bench in paragraph 18 of the

judgment held that when any statute of a State or any provision

therein is questioned on the ground of lack of legislative competence, the State cannot claim legitimacy for enacting the impugned provisions with a reference to provisions in Part IV of the Constitution. It must be demonstrated with reference to one or more of the entries in Lists II and III of the Seventh schedule of the Constitution. By noticing entry 23 of list III-Concurrent List and the provisions of sub-section (4) of Section 3 of the Act, it was noticed that the said provisions postulates social security

and welfare measures for fishermen. In other words, it was held

that the State no doubt had the competence to come out with a legislation for the social security and welfare measures but there has to be nexus for the purpose of charging the contribution. By noticing the business activity of the petitioners therein, it was noticed that there was no relationship of employer and employee between the contributor and the beneficiary of the provisions of the Act and Scheme made thereunder. The only nexus between the categories of persons covered by the sweep of Clause (d) of Section 2 of 1985 Act included that exporters for carrying on the business of buying or selling or processing fish or exporting fish in raw or processed form or fish products including a commission agent, a broker or any other mercantile agent, by whatever the name called, and a non-resident dealer or an agent or a non-resident dealer or a local branch of a firm or a company or an association situated outside of the State of Kerala and the beneficiaries under the Act and Scheme. In such a narrow compass, it was noticed that the former are the purchaser and the latter are the catchers and sellers of the fish. Such a nexus was held to be not sufficient to burden a purchaser/exporter with the impost or levy of contribution under Section 4(2) of the Act and accordingly it was struck down in paragraph 23.

5. The things did not stop here. After a gap of almost

four(4) years, State of Kerala came out with an ordinance No.57/2006 Kerala Fishermens and Allied Workers Welfare Cess Ordinance 2006. In the aforementioned ordinance, the definition of a dealer defined under Section 2(d) was synonymous with the definition of dealer in the 1985 Act. Similarly 'sale proceeds' under the erstwhile Act in Section 2(jd) and Section 2(k) of Ordinance. Not only this, the definition of 'Allied workers' in Section 2(a) of 1985 Act and of the Ordinance were also replica.

6. The Ordinance continued to remain in force as the

house could not pass the bill on time. Association submitted a representation Ext.P3 in WP(C)No.30322/2010 dated 16.04.2007. The contents of the same reads as under: The Kerala Legislative Assembly has passed the above bill on 22.3.2007. We, the Seafood Exporters of Kerala, are worst affected second time again by this bill, due to following reasons.

The above bill is the offshoot of Kerala Fishermen Welfare Fund Act 1985 (Act of 30, 1985) which provided contribution of 1% on the sale proceeds of dealers (exporters). The exporters (dealers) have no employer-employee relation with fishermen. This was challenged before the Court and finally the Constitution Bench of Hon'ble Supreme Court of India declared the relevant section 4 (2) unconstitutional thereby the levy became illegal. On a plea of Government, the Hon'ble Supreme Court ordered not to refund the levy already collected by the Government till then. A copy of the

Judgment in the Case of "Koluthara Exports Ltd., Vs State of

Kerala & Othrs" is attached herewith for your kind perusal, particularly last three paragraphs. The present Bill of 2007 also proposed similar levy by way of "CESS" which is illegal and contrary to the decisions of Hon'ble Supreme Court. This will lead to multiplicity of litigations over years and also huge amounts of deposits for Stay and other proceedings. The exporters would lose all such deposits as in the earlier decisions (last paragraph of the Judgment). If implemented none of the exporters would pay the cess, instead would challenge the constitutionality of the levy before the High Courts, thereby the purpose of collecting revenue for the welfare fund would be defeated. Moreover the net realization on sale by fishermen will be substantially reduced, the processing and export earnings of Kerala State would be drastically dropped thereby losing foreign exchange to the State and Country without achieving any benefit from the Exporters.

Sir, you are the protector of the Constitution and hence please consider all the facts and circumstances and exempt us from above levy and oblige.

7. On 13.10.2007, Act 9 of 2007 was notified and came

into effect from 18.02.2006. The definition of the Allied Workers as per the previous Act and Ordinance had undergone certain change, similarly definition of

Dealer as well as Sale Proceeds. The expression exporters was taken out from the purview of the Act. The aims and objects with which the Act came into force by the legislature reads thus:

> As per Section 4 (2) of The Kerala Fishermen's Welfare Fund Act 1985 (Act 30 of 1985) a merchant shall pay every year 1% of his total annual sales proceeds to The Kerala Fisherman Workers Welfare Fund Board. As per the decision of the constitutional bench of The Hon'ble Supreme Court in Civil Appeal No. 12788 of 1996 it was held that the state legislature has no power to make law on the subject and therefore the above said provision was rendered unconstitutional. The Hon'ble court has held that there is no nexus between the contributor and the beneficiary since there is no employer employee relationship between them and therefore the levy could not be imposed or realized from the purchaser/exporter. Consequently The Government could not levy from the purchaser of fish or the exporter the required cess and therefore the welfare fund board has lost it's financial stability.

The government has examined the matter and in order

> to augment the funds of the The Kerala Fishermens Welfare Fund Board it was decided to impose half percent cess on the turnover of fish and fish products and to realize the same from the traders. Even though a bill numbered as 287 was introduced during the 11 Legislative Assembly due to want of time it could not be enacted. Since the Kerala State Legislature was not in session, and since the directives were to be enforced immediately The Governor of Kerala promulgated an ordinance The Kerala Fisherman and Allied Workers Welfare Fund Cess Ordinance dated 07.01.2006 and the same was published as Ordinance No. 8 of 2006 in the extra ordinary gazette No. 46 dated 07.01.2006. Even though a bill was introduced to replace the ordinance with an act the same could not be introduced or passed during the assembly session commencing from 03.02.2006 and ending on 21.02.2006 and further commencing

from 14.03.2006 and terminating on 15.03.2006. The ordinance was re-promulgated on 17.03.2006 as The Kerala Fisherman and Allied Workers Welfare Fund Cess Ordinance (28 of 2006) and the same was published in the extra ordinary gazette No. 604 dated 17.03.2006. Even though a bill was introduced to replace the ordinance with an act the same could not be introduced or passed during the assembly session commencing from 24.05.2006 and ending on 30.06.2006. The Governor again re-promulgated The Kerala Fisherman and Allied Workers Welfare Fund Cess Ordinance 2006 (37 of 2006) and the same was published in the extra ordinary gazette No. 1131 dated 05.07.2006.

Even though a bill was introduced to replace the ordinance with an act the same could not be introduced or passed during the assembly session commencing from 18.09.2006 and ending on 26.10.2006. The Governor has again re- promulgated The Kerala Fisherman and Allied Workers Welfare Fund Cess Ordinance 2006 (57 of 2006) and the same was published in the extra ordinary gazette No. 1721 dated 30.10.2006. This bill is intended to enact a legislation replacing the said ordinance.

8. The rationale of the Kerala Fishermens Welfare Fund

Act, 1985, as well as 2007 Act as far as the welfare of the fishermen is concerned remained the same. It is in that context, Assessing Officer sent individual notices to the exporters, giving cause to assail legislative competence with a declaration that exporters, in view of the judgment in Koluthara Exports (supra) are not exigible to pay cess approached this Court. State contested the aforementioned writ petitions and in principle had taken a stand that there is a stark difference between the previous Act as well as 2007 Act as expression contribution no longer exists/subsists and has been replaced with the expression cess which as per the catena of judgments would also include tax or fee.

9. Learned Single Bench on appreciation of

materials/documents and the case law cited, allowed the writ petitions and declared that the Act 2007 would not be applicable to the exporters, for, the State did not have the legislative competence to introduce Sections 3(1), 3(2) and 3(3) of the 2007 Act. It is in that background, intra court appeals have been filed.

10. Mr.Rafeeq, learned Sr. Government Pleader on behalf of the State and in support of the memorandum of appeal raised the following submissions:

(i) The 2007 Act has been enacted to levy cess on sale

proceeds of fish, fish products, allied objects and equipment within the State with a view to augment resources to the Kerala Fishermens Welfare Fund constituted under the Fishermens Welfare Fund Act, 1985, to safeguard the welfare of the fishermen and allied workers of fisheries industries in the State.

(ii) The Supreme Court in Koluthara Export (supra)

held that though the State can justify the Act under Entry 23 of

List III but it cannot impost levy in the nature of contribution payable by the exporters. The 2007 Act do not envisage any liability imposed upon the exporters qua contribution, thus, the ratio decidendi culled out in the Koluthara Export was/is not applicable in the context of levy of cess.

(iii) The impost in the nature of employees contribution

as envisaged in the 1985 Act and levy of cess under 2007 Act are not in pari materia but are quiet different and thus the petitioners cannot be permitted to contest that there was no employer and employee relationship.

(iv) The Unique feature of the cess is that it is a

compulsory levy meant to raise revenue for a specific purpose. The presence of quid pro quo is not always sine qua non for a cess. The cess was introduced by taking aid of Entry 58 of List II of Seventh Schedule. The said entry for clarity deals with the Taxes on animals and boats. Fish would also be an animal, in view of ratio decidendi culled out in ITC Ltd. v. Person in charge, Agricultural Market

Committee, Kakinada and others [2004) 2 SCC 794]. The said findings came to be passed by taking into consideration definition of fish in Section 2(b) of Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981 and it was held that in a common parlance, animal is understood as a quadruped creature but fish is also an animal but of a different kind. So it has also essential attributes of an animal because of the life, sensation and voluntary motion.

(v) The Learned Single Bench ought not to have tested

the legislative competence of the State in promulgating 2007 Act by striking out the aforementioned provisions as many other entities/persons falling under the definition of Dealer have also be given a benefit.

(vi) The law with regard to charging of cess, which have trappings of tax or a fee, is no longer res integra in view of the

judgment of Supreme Court in State of West Bengal v.

Kesoram Industries Ltd. And Others [2004 (10) SCC 201] wherein paragraph 142 by taking into reference of the facts of the case as well as the definition of cess, it has been held that the State is not denuded from levying cess by way of tax so as to generate its funds. Though it may be termed as cess on a particular item like mineral, in that case, but the impact thereof falls on the land delivering the minerals.

(vii) It would also mean an assessment or levy.

Availability of indirect benefit and a general nexus between the person bearing the burden of levy of fee and the services rendered out of the fee collected is enough to uphold the validity of fee charged and therefore cannot be construed to be a tax on a tax.

11. Per contra Sri.S.Muralidhar, learned Senior counsel

assisted by Sri. Premjith Nagendran countered the arguments of Mr.Rafeeq, the Learned Government Pleader, summarized their submissions, in the following manner: (i). The definition of 'dealer' in the 1985 Act viz, Ordinance was/is identical. The State after having considered the representation Ext.P3 had taken the conscious decision in not including 'exporters' for the purpose of levy of cess which would be seen from the definition of 'dealer' in Section 2(d) of 2007 Act. Similarly the definition of Sale proceeds had undergone some change, as was intended to be done by way of Ordinance. So far so there was no grievance, but the cause of action accrued on receipt of the notice by an Assessing Officer. It is in that background, the legislative competence was assailed in this Court.

(ii) It is not a case were the exporters are not paying

applicable taxes but have been taking care of the employees under various Central and State legislation much less the interest of the fishermen has also been protected in view of the Kerala Fishermen's Welfare Societies Act, 1980. Provisions of Section 27 of the Societies Act, 1980, casts duty on the society in case of an accident to the member or their families, regarding the relief of payment as well as in case of incapacity and disability has been taken care of.

(iii) State had not come out with different object by

bringing 2007 Act which in fact is similar to that of 1985 Act. In fact, the purpose of levying cess was to 'contribute' to the funds under Section 2(h) defined in 2007 Act, which would mean Kerala Fisher men's Welfare Fund established under Section 3 of the Kerala Fishermen Welfare Act, 1985.

(iv) Similarly Section 3 provides for levy and collection of

cess for the purpose of 1985 Act and the cess was also charged under the scheme framed thereunder ie., 1% total Sales proceeds of dealer in a financial year. There was no dispute with regard to the definition of 'Dealer' as provided under 2007 Act. But when the officers at helm of affairs gave a different meaning/connotation befitting the intent of the State to bring back the levy/contribution which was sought to be achieved by 1985 Act despite being not successful as per the ratio in Koluthara.

(v) Article 286 of the Constitution of India imposes a restriction on a State vis-a-vis the imposition of tax on sale and purchase of the goods meant for import of the goods into, export of the goods out of the territory of India. In other words, it was submitted that the legislative competence was that of 'Central' and not of the 'State'. In support of the contention relied upon two judgments in M/s.Sterling Foods v. The State of Karnataka and Another [63 STC 239] and State of Karnataka v. Azad Coach Builders Pvt.Ltd. And Another [(2010) 36 VST 1 (SC)]. The question involved in the cited

judgment was also with regard to Export of Seafood and State,

as per the provisions of Section 5 of the Karnataka Sales Tax Act, 1957, had imposed tax on such items. By noticing the aforementioned provisions, the demand raised by the commissioner of tax on raw shrimps, prawns and lobsters meant for export was held to be not included in the taxable turn over of the said assessees. Similarly in the other cited judgment in State of Karnataka, Karnataka sales tax had attempted to impose a tax upon a builder indulging into fabrication of the imported chassis brought into India. It was held to be also not within the domain of the State.

(vi) By virtue of 2007 amendment allied workers would

mean a person who is engaged mainly in fishery related activities for his livelihood and those do not come under the definition of term 'fishermen' in Clause (e) of Section 2 of 1980 Societies Act but also includes beach workers, fish distributors, fish curers, peeling workers and processing plant workers who are not members or not eligible to get membership any other Statutory Welfare Scheme.

12. We have heard the learned counsel for the parties and appraised the paper book.

13. Dealing with the questions, noticed above, it would be useful to extract the definitions of dealers, sale proceeds and allied workers provided in 1985 Act, Ordinance and 2007 Act, for a comparison:

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    The               Kerala     The Kerala Fishermen's        The
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Cess Act 2007

Long Title: An Act Long Title: An Long

Kerala Fishermen's Welfare Fund constituted under Section 3 of the Kerela Fishermen's Welfare Fund Act 1985 (30 of 1985) Definitions Definitions Definitions Section 2(a) Allied Section 2(a) Allied Section 2(a) Allied Workers Workers Workers

Allied Worker Allied Worker means

any other statutory welfare scheme. Section 2(d) Dealer Section 2(d) 'Dealer' Section 2(d) Dealer'

Dealer means any Dealer means

includes. -

(i) a commission (i) a commission agent, (i) a commission

agent, a broker a broker or any other agent, a broker, or any other mercantile agent; by auctioneer or mercantile whatever name any other agent; by called; and mercantile whatever name agent; by called; and whatever name called; and

(ii) a non-resident (ii) a non-resident dealer (ii) a non-resident dealer or an or an agent of a non- dealer or an agent of a non- resident dealer or a agent of a non-

resident dealer local branch of a firm resident dealer or a local branch or company or or a branch of of a firm or association situated a firm or company or outside the State company or association association situated outside situated the State of outside the Kerala State Provided that, fishermen and allied worker as defined in the Kerala Fishermen's Welfare Fund Act, 1985(30 of 1985) shall not be included in this

Section 2(jd) Sale Section 2(k) Sale Section 2(k) Sale Proceeds Proceeds Proceeds

Sale Proceeds Sale proceeds means the Sa

case of transfer outside State fish or fish the State, the sale products or allied value shall be the actual objects or value of goods equipments for use transferred, calculated or for processing on the basis of the rate otherwise sold in or prevailing in the State from the State,

14. On perusal of the above, it is evident that the legislature, while promulgating Ordinance had again, despite the

fact that previous legislation by virtue of 1985 Act has been held

to be without competence for imposing of contribution upon the exporters, intended to include the name of the exporters. But on receipt of representation Ext.P3, extracted above, took a conscious decision not to include the exporters while promulgating 2007 Act. But on minute perusal of definition of sale proceeds under Section 2(k), sale proceeds means sale value of all transactions carried out in the State including buying or selling, bringing in or sending outside the State, fish or a fish products or allied objects or equipments for use or for processing otherwise sold in or from the State, reflects intent to overcome the finding in previous

judgment qua legislative competence having declared

ultravires, again attempted to bring in the 'exporters'. Section 3 incorporated in the 2007 Act envisages levy and collection of cess for the purpose of Kerala Fishermens Welfare Fund Act 1985 at one percent (1%) of the total sale proceeds of a dealer in the financial year. The same reads as under:

3. Levy and Collection of Cess. -(1) There shall be

levied and collected a cess for the purpose of the Kerala Fishermen Welfare Fund Act, 1985 and the scheme thereunder, at one percent of the total sale proceeds of a dealer in a financial year.

(2) The cess levied under sub-section (1) shall be collected from every dealer in such manner and at such time, as may be prescribed.

(3) The cess levied under sub- section (1) shall be in addition to any cess, duty or tax leviable on fish under any law for the time being in force.

(4) The proceeds of the cess collected under sub- section (2) shall be credited initially to the Consolidated Fund of the State in the manner, as may be prescribed.

(5) The amount of cess collected shall be paid to the

Fund of the Board by the Government after deducting the cost of collection of such cess not exceeding one percent of the amount collected every year, before 30th June, in the manner as may be prescribed.

14. As noticed above, the State had, earlier, for the

purpose of bringing succor to the fishermen intended to impose one percent (1%) of contribution upon the various dealers including the exporters and promulgated 1985 Act for imposing of the contributions which was though affirmed by the High Court but held to be unconstitutional by the Supreme Court in Koluthara (supra). Paragraphs 18 to 23 of the aforementioned

judgment reads as under:

18. Now adverting to the constitutional validity of

> the impugned provisions, it must be remembered that Part IV of the Constitution contains, as noticed above, fundamental principles in governance of the country. They indicate and determine the direction for the State but they are not legislative heads or the fields of legislation like the Entries in the Lists I, II and III of the Seventh Schedule of the Constitution. When any statute of a State or any provision therein is questioned on the ground of lack of legislative competence, the State cannot claim legitimacy for enacting the impugned provisions with

reference to the provisions in Part IV of the Constitution; the legislative competence must be demonstrated with reference to one or more of the Entries in Lists II and III of the Seventh Schedule of the Constitution. It is stated that the legislative competence is referable to Entry 23 of the Concurrent List, which may be extracted here :

"List III - Concurrent List -

23. Social security and social insurance; employment and unemployment."

There can be no doubt that Entry 23 enables the State Legislature to enact a law in respect of social security and social insurance or dealing with employment and unemployment. The provisions of sub-section (4) of Section 3 of the Act (quoted above) postulate social security and welfare measures for the fishermen. The State can, therefore, justify its competence under this Entry. But, in our view, the State cannot, in an Act under Entry 23 of List III, place the burden of an impost by way of contribution for giving effect to the Act and the scheme made thereunder for the social security and social welfare of a section of society upon a person who is not a member of such section of society nor an employer of a person who is a member of such section of society. The burden of the impost may be placed only when there exists the relationship of employer and employee between the contributor and the beneficiary of the provisions of the Act and the scheme made thereunder.

19. The validity of Employees' State Insurance Act,

1948, in regard to special contribution of the employer under Chapter V- A of the said Act, was brought under challenge in appeal before a three-judge Bench of this Court in Gasket Radiators (supra). The Court held that the payment of contribution by an employer towards the premium of an employee's compulsory insurance under the Employees' State Insurance Act fell directly under Entries 23 and 24 of List III. It was also held that the contributions under the Act or contributions to provident fund or payments of other benefits to workers are neither taxes nor fees and that they fall within the ambit of Entries 23 and 24 of List III. We are

in agreement with the observations of Chinnappa Reddy, J.

> who speaking for the Court observed : "In our understanding, Entries 23 and 24 of List III, of their own force, empower Parliament or the Legislature of a State to direct the payment by an employer of contributions of the nature of those contemplated by the Employees' State Insurance Act for the benefit of the employees."

20. In Mangalore Ganesh Beedi Works (supra), the

> constitutional validity of Sections 3, 4, 2(g), 2(g)(h), 2(m), 26, 27 and 31 of the Beedi and Cigar Workers (Condition of Employment) Act, 1966 was assailed on the ground of lack of legislative competence in the Parliament to enact such a law. Having noticed the special feature of the industry of manufacture of beedi through various categories of workers, the said Act was passed by the Parliament to provide for the welfare of workers in beedi and cigar establishments and to regulate the conditions of their work and for matters

connected therewith. A Constitution Bench of this Court held

> that having regard to the true nature and character of the legislation meant for enforcing better conditions of labour amongst those who are engaged in the manufacture of beedis and cigars, the said Act, in pith and substance, was for welfare of the labour falling within Entries 22, 23 and 24 of List III. It was pointed out that the said Act had fastened liability on the person who himself engaged labour or the person for whom or on whose behalf labour was engaged or the person who had ultimate control over the affairs of the establishment by reason of advancement of money or of substantial interest in the control of the affairs of the

establishment. Thus, it is clear that in that case the impugned legislation, while creating welfare scheme for beedi

workers, levied impost by way of contributions on the employer or a person in the position of an employer.

21. In Regional Executive Kerala Fishermen's Welfare

Fund Board (supra), the question before this Court was whether exporters of fish meat, carrying on business of buying processed fish and exporting the same, fell within the meaning of 'dealer' under Section 4(2) of the Act. The legislative competence of the State Legislature and the constitutional validity of Section 4(2) of the Act did not arise for the consideration of the Court in that case. That case, therefore, does not advance the case of the respondents.

22. In the instant case, the only nexus between the categories of persons covered by the sweep of sub-section

(d) of Section 2 of the Act, including the appellant, who carry

on the business of buying or selling or processing fish or exporting fish (in raw or processed form) or fish products, including - (i) a commission agent, a broker or any other mercantile agent, by whatever name called, and (ii) a non- resident dealer or an agent or a non- resident dealer or a local branch of a firm or company or association situated outside the State of Kerala and the beneficiaries under the Act and the scheme - the fishermen - is that the former are the purchasers and the latter are the catchers and sellers of fish. Such a nexus, in our view, is not sufficient to burden a purchaser/exporter with the impost or levy of the contribution under Section 4(2) of the Act, which will clearly be outside the ambit of Entry 23 of List III of the Constitution and, therefore, lacking legislative competence.

23. For these reasons, Section 4(2) of the Act is

declared to be unconstitutional. Consequently, the order

under challenge is set aside. The writ petition shall stand allowed to that extent.

15. On perusal of the extracted paragraphs of the

judgment in Koluthara (supra), it is evident that the intention

of the State to impose or levy of the contribution under the erstwhile Section 4(2) of the Act was held to be outside the ambit of Entry 23 of List III of the Constitution of India on account of lacking legislative competence primarily on the ground that there was no nexus or relationship of an employer and employee between the catchers of fish and exporters. There is no dispute to the ratio decidendi that the State has the power or legislative competence to impose levy but what has been already held to be illegal cannot be undone by incorporation of the new Act of 2007 by changing the nomenclature of 'contribution' to 'levy'. For the sake of repetition, the definition of 'dealer' in the Ordinance included exporter, the words 'exporting fish (in raw or in processed form)' has been replaced in the Act with the words bringing into the State or sending outside the State the fish. Similarly the definition of dealer in the Welfare Fund Act as well as Cess Act are also identical except for a mild change. The fishermen form a class engaged in catching fish, while exporter is an ultimate purchaser. It cannot be disputed that fish is initially caught by the fishermen, thereafter, being sold to various intermediaries before it ultimately reaches the hands of the exporter; in between there are many sellers, retailers, agents and processors. Therefore, it cannot be held to be sufficient to burden the exporter with liability to make contributions to Fishermens Welfare Fund in the absence of any relationship of employer and employee. It is not the case of the State that there had been relationship of employer-employee between the exporter and fishermen owing to 2007 Act. Once the Supreme Court found in Koluthara (supra) that the State has no power, the subsequent enactment is a faint attempt to charge very same contribution at the same very rate, of one percent (1%) of the sale proceeds of exporters under the different nomenclature cess. For justifying the levy of cess there has to be a relationship of an employer and employee between exporter who is an ultimate purchaser and the fisherman. Thus, the stand of the State in our considered view had not been consistent regarding the nature of the import.

16. In the present case contribution is sought to be

extracted from the respondent - petitioners neither as a tax or a fee but as a cess, but it does not have characteristics of a tax. Though tax is a levy that is imposed for general purpose, but in the instant matter, the levy is being imposed not for general purpose, but for the benefit and to subserve the cause of the fishermen. Comparison of the definitions of expressions dealer and sale proceeds prima facie shows that they are similarly worded. A feeble attempt has been made to satisfy the conscious of this Court by contending that the present enactment has been made to say cess is different to contribution. This argument does not merit acceptance as the only change in the previous Act and the present Act is, instead of 'contribution' nomenclature has been given as that of 'levy'.

17. Levy, no doubt can be also considered as a tax but

in the present case levy is described as cess. The expression exporter has been consciously omitted on receipt of the representation of the dealers whereby the State taken a decision in not including the exporters for the purpose of levy but the authorities at the helm of affairs issued notices for recovery of cess giving cause to the exporters to assail by bringing them under the expression bringing into State or sending outside State the fish (raw or processed). A similar controversy arose in the Supreme Court in M/s. Sterling v. State of Kerala [63 STC 239]. In the aforementioned case, challenge was laid to impost of a tax as per the provisions of Section 5 (3) of Central Sales Act, 1956 on the goods which were purchased by an assesee for the purpose of complying with the agreement or order or in relation to export and for that purpose had been purchasing raw or the processed fish. Even though, after making the said purchase the exporter subjected them to process of cutting heads and tales, peeling, cleaning and freezing before the export. In a sense the goods remain in commercial parlance after processing and freezing remain the same. By noticing the aforementioned activity, it was held that the purchase of raw shrimps, prawns and lobsters were exempted from purchase tax under Section 5(3) of the Central Sale Tax Act.

18. In State of Karnataka v. Azad Coach Builders

Pvt. Ltd. [(2010) 36 VST 1 (SC)] exporter in respect of a sale in the course of exports was also brought under the ambit of provisions of Section 5(3) of the Central Sales Tax Act. In the aforementioned case a local manufacture of the goods sought exemption from the purview of provisions of sub section 3 of Section 5 of the Central Sales Tax Act on the ground that the penultimate sale of the goods effected in favour of the exporter was inextricably connected with the export of goods outside the territory of India. He was a manufacturer and seller of bus bodies in the State of Karnataka whereas another party was an exporter and manufacturer of chassis of motor vehicles. On receipt of the orders from the foreign buyers for the buses, the exporter in turn placed orders upon the manufacturer and seller of bus bodies to be fitted on the chassis supplied by it. The buses were then exported by the exporter. The State brought the activity under the provisions of the aforementioned Act and imposed tax, but on analysis of the transaction, court held that the transaction between the exporter and foreign buyer was inextricably connected with each other and therefore, the provisions the Act had no applicability.

19. Article 286 of the Constitution of India argued on

behalf of Sri.S.Muralidhar has also a direct role to play with regard to the legislative competency of the State to impose cess on the exporters. The same reads as under:

286. Restrictions as to imposition of tax on the sale or

purchase of goods- (1) No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place.- (a)outside the State; or (b)in the course of the import of the goods into, or export of the goods out of, the territory of India. [***]

(2) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1).

20. on perusal of the aforementioned Article, it is evident

that the power to impose a tax on such type of transaction only vests with the Central and not with the State. The State has failed to overcome the hurdle qua applicability of Article 286 of the Constitution of India, probably for the reason that there is no direct relationship of employer and employee. The intention for promulgating the welfare fund was to uplift the fisherman. Workers working in the processing plants owned by the exporters would not fall within the definition of fisherman for subjecting of cess.

21. Though the Single Bench in the penultimate

paragraph of the judgment declared that Section 3(1), 3(2) and 3(3) of the Act are beyond the legislative competence and set aside the provisions, we are of the view that instead of setting aside the provisions, it should have been construed that the said provisions would not be applicable to the exporters- respondent - writ petitioners. With the aforementioned modifications, we uphold the remaining findings. Writ appeals stand dismissed. Sd/- AMIT RAWAL JUDGE Sd/- C.S. SUDHA JUDGE nak APPENDIX OF WA 944/2019 PETITIONER ANNEXURES ANNEXURE A1 TRUE COPY OF THE ORDER DATED 25/02/2019 IN THE CONTEMPT CASE (CIVIL) NO.256/2019.