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Addon Integrated Facility Solution vs the State of Kerala

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Court : Kerala

Decided On : Sep-11-2023

Judge : Honourable Mr. Justice D. K. Singh

Appeal No. : WP(C)/29555/2023

Appellant : Addon Integrated Facility Solution

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH MONDAY, THE 11TH DAY OF SEPTEMBER 2023 / 20TH BHADRA, 1945 WP(C) NO. 29555 OF 2023 PETITIONER: M/S.ADDON INTEGRATED FACILITY SOLUTION XV/284, FRIENDSHIPLANE, PIPELINE ROAD, ALUVA, ERNAKULAM, PIN - 683101 REPRESENTED BY IT'S MANAGING PARTNER, SRI. NELLIKUNNEL LATHEEF. BY ADVS. BLOSSOM MATHEW U.KARTHIKA RESPONDENTS: 1 THE STATE OF KERALA REPRESENTED BY ITS SECRETARY, TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 2 ASSISTANT COMMISSIONER (INTELLIGENCE) STATE GOODS AND SERVICES

TAX DEPARTMENT, SQUAD NO. VIII, ERNAKULAM, SGST COMPLEX, PERUMANOOR P.O, ERNAKULAM, PIN - 682015 3 DEPUTY COMMISSIONER OF STATE TAX (ARREAR RECOVERY), STATE G.S.T DEPARTMENT, MINI CIVIL STATION, ALUVA, PIN - 683101 OTHER PRESENT: JASMINE M.M.-GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 11th day of September, 2023 This writ petition under Article 226 of the Constitution of India has been filed seeking a relief from this Court for payment of outstanding interest amount of Rs.21,75,273/- vide recovery notices Exhibit P3.

2. Petitioner is a registered dealer under KSGST and CGST Act,

2017. Petitioner has not paid GST from 2017-2018 to 2020-21. Assessment proceedings under Section 73 of the GST Act were culminated in assessment orders Exhibit P1.

3. Learned counsel for the petitioner submits that in pursuance

to the assessment order, petitioner has paid the assessed tax and only penalty and interest are remained to be paid, for which recovery notices- Exhibit P3 has been issued.

4. Learned counsel for the petitioner submitted that the

petitioner is willing to deposit the amount demanded by the recovery notices, provided the petitioner is granted 24 months time to pay off the interest and penalty amount of Rs.21,75,273/-.

5. Learned Government Pleader submits that Section 80 of the CGST Act empowers the Commissioner of CGST, to grant instalments not exceeding 24 instalments subject to payment of interest under Section 50.

6. Learned Government Pleader thereto submits that the

petitioner may approach the Commissioner, as the Commissioner has to take a decision for granting instalments to the petitioner for making payment of the outstanding dues demanded vide Exhibit P3.

7. I have heard learned counsel for the petitioner and the learned Government Pleader.

8. Present writ petition is disposed of with a direction to the

Commissioner, State GST Department to allow the petitioner to deposit the due tax liability as demanded by Exhibit P3, in 24 instalments. Petitioner is directed to make an application within a period of ten days from today, before the Commissioner and the Commissioner should allow the said application in the light of provisions of Sections 80 and 50 of the GST Act, 2017. For a period of one month, recovery notices shall be kept in abeyance.

With the aforesaid direction this writ petition stands disposed of. Sd/- Dinesh Kumar Singh, Judge sou. APPENDIX OF WP(C) 29555/2023 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPIES OF GST DRC07 ORDERS DATED 25.10.2022 ISSUED FOR THE YEARS 2017-18 TO 2020-21 EXHIBIT P2 TRUE COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DATED 21.10.2022 EXHIBIT P3 TRUE COPY OF THE RECOVERY NOTICES DATED 17.08.2023 ISSUED BY THE 3RD RESPONDENT ALONG WITH ITS ENGLISH TRANSLATIONS

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