

Assistant Commissioner, vs Deera Distributors

Assistant Commissioner, vs Deera Distributors

SooperKanoon Citation : sooperkanoon.com/1455432

Court : Kerala

Decided On : Aug-22-2022

Judge : Honourable Mr.Justice S.V.Bhatti,Honourable Mr.Justice Basant Balaji

Appeal No. : WA/365/2020

Appellant : Assistant Commissioner,

Respondent : Deera Distributors

Advocate for Pet/Ap. : Mr. Mohammed Rafiq

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 48 OF 2020 AGAINST THE JUDGMENT WP(C) 9963/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 STATE TAX OFFICER, WOKS CONTRACT, STATE GOODS AND SERVICES TAX DEPARTMENT CLAS TOWERS, OLD RAILWAY STATION ROAD, ERNAKULAM, KOCHI-682 018. 2 STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT

SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 001. BY SPL GOVERNMENT PLEADER (TAXES)MR MOHAMMED RAFIQ RESPONDENT/S: BAIJU.A.A, AGED 48 YEARS, PROPRIETOR, ARC TECH, VII/633F, WAZIM MANZIL AIRPORT SEAPORT ROAD, FRIENDS VALLEY, THRIKKAKARA, KOCHI-682 021. BY ADV MR K N SREEDHARAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.7/2021, 10/2021 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 7 OF 2021 AGAINST THE JUDGMENTWP(C) 13157/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 STATE OF KERALA, REPRESENTED BY ITS SECRETARY (TAXES), GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001. 2 THE STATE TAX OFFICER,(WORKS CONTRACT), O/O THE DEPUTY COMMISSIONER, STAGE GOODS AND SERVICES TAX DEPARTMENT, STATE GOODS AND SERVICES TAX COMPLEX, PERUMANOOR, KOCHI 682 015. BY SPL GOVERNMENT PLEADER (TAXES)MR MOHAMMED RAFIQ RESPONDENT/S: M/S.CHAKOLAS HABITAT BAY SIDE, 26/2075 H, PANDIT KARUPPAN ROAD, THEVARA, ERNAKULAM 682 013, REPRESENTED BY ITS MANAGING PARTNER, MR. MATHEW L. CHAKOLAS. BY ADV A KUMAR THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -3-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 10 OF 2021 AGAINST THE JUDGMENTWP(C) 14554/2020 OF HIGH COURT OF KERALA APPELLANT/S:

1 ASSISTANT COMMISSIONER, NOW DESIGNATED AS ASSISTANT COMMISSIONER OF STATE TAX, SPECIAL CIRCLE II, STATE GOODS AND SERVICES TAX DEPARTMENT SALES TAX COMPLEX, KAWAHAR NAGAR, ERANHIPALAM P.O. KOZHIKODE 673 006. 2 STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM GPO, THIRUVANANTHAPURAM 695 001. BY SPL GOVERNMENT PLEADER (TAXES)MR MOHAMMED RAFIQ

RESPONDENT/S: M/S.INTERDEC, KARIMBANAPALAM, VATAKARA, KOZHIKODE 673

101. REPRESENTED BY ITS MANAGING PARTNER, SIDDIQUE. BY ADVS. SRI.R.JAIKRISHNA SRI.C.S.ARUN SHANKAR THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -4-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 98 OF 2021 AGAINST THE JUDGMENTWP(C) 13898/2020 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER, DEPARTMENT OF SGST, IRINJALAKUDA , THRISSUR 682 123. 2 STATE OF KERALA, REPRESENTED BY ITS SECRETARY , TAXES DEPARTMENT , GOVERNMENT SECRETARIAT,

THIRUVANANTHAPURAM 695 001. BY SPL GOVERNMENT
PLEADER (TAXES)MR MOHAMMED RAFIQ RESPONDENT/S:
P.S.KANNAN, PROPRIETOR, M/S. SACHINDRA PLYMER
INDUSTRIES, VALLIVATTOM, IRINJALAKUDA, THRISSUR 680 123.
BY ADV HARISHANKAR V MENON THIS WRIT APPEAL HAVING
COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH
WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING: -5-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE
HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND
DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 51 OF 2021
AGAINST THE JUDGMENTWP(C) 23187/2020 OF HIGH COURT OF
KERALA APPELLANT/S: 1 DEPUTY COMMISSIONER, SPECIAL
CIRCLE-1, STATE GOODS AND SERVICE TAX DEPARTMENT,
ERNAKULAM, THEVARA, KOCHI-682 015 2 STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT, TAXES
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001 BY SPL GOVERNMENT PLEADER
(TAXES)MR MOHAMMED RAFIQ RESPONDENT/S: KRISHNA
METALS, 682 018, (REPRESENTED BY SRI. MANOJKUMAR T.,
PROPRIETOR). BY ADV K N SREEKUMARAN THIS WRIT APPEAL
HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH
WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING: -6-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE
HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND
DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 8 OF 2021
AGAINST THE JUDGMENTWP(C) 18711/2020 OF HIGH COURT OF

KERALA APPELLANT/S:

1 THE COMMERCIAL TAX OFFICER (WORKS CONTRACT) DEPARTMENT OF COMMERCIAL TAXES, CLASS TOWER, OLD RAILWAY STATION ROAD, ERNAKULAM, KOCHI, PIN 682 018 2 THE DEPUTY COMMISSIONER (APPEALS) DEPARTMENT OF COMMERCIAL TAXES, SALES TAX OFFICE COMPLEX, PERUMANOOR, 3 THE SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM PIN 695 001 BY SPL GOVERNMENT PLEADER (TAXES)MR MOHAMMED RAFIQ

RESPONDENT/S: BILJU JOSEPH, AGED 46 YEARS BASIL ENGINEERING CONTRACTORS, S.B.TECH CONSTRUCTIONS, MUNDAKKAL HOUSE, PARAPPILLIL ROAD, THIRUVANKULAM, ERNAKULAM BY ADV SRI.M.K.SUBHAKARAN -7- THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -8-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 117 OF 2021 AGAINST THE JUDGMENTWP(C) 6540/2020 OF HIGH COURT OF KERALA APPELLANT/S:

1 THE STATE TAX OFFICER-II, KARUNAGAPALLY, STATE GOODS AND SERVICES TAX DEPARTMENT, MINI CIVIL STATION, KARUNAGAPALLY, KOLLAM DISTRICT, PIN-690 518. 2 THE COMMISSIONER OF STATE GOODS AND SERVICES TAX DEPARTMENT, KERALA, TAX TOWER, KILLIPPALAM, KARAMANA P.O., THIRUVANANTHAPURAM-695 002. 3 STATE OF KERALA,

REPRESENTED BY THE SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001. 4 THE DEPUTY TAHSILDAR, KUNNATHUR TALUK, MINI CIVIL STATION BUILDING, SASTHAMKOTTA P.O., KOLLAM DISTRICT, PIN-690 521. BY SPL GOVERNMENT PLEADER (TAXES)MR MOHAMMED RAFIQ

RESPONDENT/S: -9- PATHARAM SERVICE CO-OPERATIVE BANK LTD.NO.721 PATHARAM P.O., OORANAD SOUTH, KOLLAM DISTRICT, REPRESENTED BY ITS SECRETARY, PREMKUMAR.B. BY ADV SRI.BOBBOY JOHN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -10-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 143 OF 2021 AGAINST THE JUDGMENTWP(C) 15038/2020 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER, STATE GOODS AND SERVICES TAX DEPARTMENT, KERALA, CHITTUR 678 101 2 STATE OF KERALA, REP.BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 002 3 THE ASSISTANT COMMISSIONER, STATE GOODS AND SERVICES TAX DEPARTMENT, KERALA, CHITTUR 678 101 BY SPL GOVERNMENT PLEADER (TAXES)MR MOHAMMED RAFIQ RESPONDENT/S: JINESH A.M, AGED 33 YEARS M/S.ANTHIKKAT AGENCIES, XV/696, MANALIPPADAM ROAD, CHIKKANAMPARA, POLLACHI ROAD, KOLLENGODE BY ADVS. SRI.N.MURALEEDHARAN NAIR; SRI.S.JAFFERALI THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND

CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -11-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 75 OF 2021 AGAINST THE JUDGMENTWP(C) 22451/2020 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASSISTANT COMMISSIONER, NOW DESIGNATED AS DEPUTY COMMISSIONER, WORKS CONTRACT, STATE GOODS AND SERVICES TAX DEPARTMENT, CLASS TOWER, OLD RAILWAY STATION ROAD, ERNAKULAM-682 018. 2 STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001. BY SPL GOVERNMENT PLEADER (TAXES)MR MOHAMMED RAFIQ RESPONDENT/S: SUDHAKARAN NAIR AND CO PVT LTD, PIN-682 019 (BRANCH), (HEAD OFFICE AT 537, ESSENCO HOUSE, B BLOCK, AECS LAYOUT, KUNDALAHALLI, BANGALORE-560 037), REPRESENTED BY VINOD SITAPARA, DIRECTOR. THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -12-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 94 OF 2021 AGAINST THE JUDGMENTWP(C) 14318/2020 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE COMMERCIAL TAX OFFICER, (WC), OFFICE OF THE DEPUTY COMMISSIONER, DEPARTMENT OF SGST, ERNAKULAM 682 018. 2 STATE OF KERALA, REPRESENTED

BY ITS SECRETARY, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001. BY SPL GOVERNMENT PLEADER (TAXES)MR MOHAMMED RAFIQ RESPONDENT/S: M/S.V.C. CONSTRUCTIONS, VANACHIRACKAL HOUSE, XIII/294, KANGARAPADY, THRIKKAKARA, KOCHI 682 031, REPRESENTED BY ITS MANAGING PARTNER, YEJO JOHN. BY ADV HARISHANKAR V MENON THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -13-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 99 OF 2021 AGAINST THE JUDGMENTWP(C) 24462/2020 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER, (WORKS CONTRACT),STATE GOODS AND SERVICES TAX DEPARTMENT,ERNAKULAM-682018. 2 STATE OF KERALA, REPRESENTED BY ITS SECRETARY, TAXES DEPARTMENT,GOVT.SECRETARIAT, THIRUVANANTHAPURAM-695001. BY SPL GOVERNMENT PLEADER (TAXES)MR MOHAMMED RAFIQ RESPONDENT/S: T.O. ITTOOP AND ASSOCIATES, DOOR NO.A2/373,CHITTOOR ROAD,KOCHI-682012, REPRESENTED BY ITS MANAGING PARTNER,T.I.GEORGE. BY ADV HARISHANKAR V MENON THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -14-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND

DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 48 OF 2021 AGAINST THE JUDGMENT WP(C) 22259/2020 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER, (WORKS CONTRACT), STATE GOODS AND SERVICES TAX DEPARTMENT, MATTANCHERRY, KOCHI - 682002. 2 STATE OF KERALA, REPRESENTED BY ITS SECRETARY, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695001. BY SPL GOVERNMENT PLEADER (TAXES)MR MOHAMMED RAFIQ RESPONDENT/S: K.N.VIJAYAN, AGED 65 YEARS, S/O. NARAYANAN, PROPRIETOR, M/S. VIJAYA PROCESS AND ENGG. CONSTRUCTIONS, VENATIL HOUSE, PALLURUTHY P.O, KOCHI - 682006. BY ADVOCATE HARISHANKAR V.MENON THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -15-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 52 OF 2021 AGAINST THE JUDGMENT WP(C) 12808/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER, SPECIAL CIRCLE-I, KOZHIKODE-673 006 2 GOVERNMENT OF KERALA, REPRESENTED BY CHIEF SECRETARY, THIRUVANANTHAPURAM-695 001 3 THE COMMISSIONER OF COMMERCIAL TAXES, THIRUVANANTHAPURAM-695 001 BY SPL GOVERNMENT PLEADER (TAXES)MR MOHAMMED RAFIQ RESPONDENT/S: SOUBHAGYAM FOOD INDUSTRIES PVT. LTD., PUTHIYANGADI, CALICUT-673 021, BY P.V. CHANDRAN, MANAGING DIRECTOR. BY ADVS. SRI.PREMJIT NAGENDRAN; SRI.P.RAGHUNATH THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND

CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -16-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 142 OF 2021 AGAINST THE JUDGMENT WP(C) 21358/2020 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER, 2ND CIRCLE, STATE GOODS AND SERVICES TAX DEPARTMENT, KOLLAM 691 001 2 STATE OF KERALA, REP.BY ITS SECRETARY, TAXES DEPARTMENT, GOVT. SECRETARIAT, THIRUVANANTHAPURAM 695 001 BY SPL GOVERNMENT PLEADER (TAXES)MR MOHAMMED RAFIQ RESPONDENT/S: K.R.USHASREE, AGED 59 YEARS W/O.OF MOHANANCHANDRAN NAIR, PROPRIETRIX, M/S. TROPICAL COMMODITIES, 12/69, KILIKOLLOOR, KOLLAM -1 BY ADV HARISHANKAR V MENON THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -17-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 245 OF 2021 AGAINST THE JUDGMENT WP(C) 12022/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE OF KERALA REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001. 2 THE ASSISTANT COMMISSIONER OF STATE TAX (ASSESSMENT), SGST DEPARTMENT, SPECIAL CIRCLE, THRISSUR-680 003. BY SPL

GOVERNMENT PLEADER (TAXES)MR MOHAMMED RAFIQ
RESPONDENT/S: POLJO AGENTS AND DISTRIBUTORS MULLAKAD,
IRINJALAKUDA, REPRESENTED BY ITS PROPRIETOR, SHRI.PAUL
JOSE, PIN-680 121. BY ADV G HARIKUMAR THIS WRIT APPEAL
HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH
WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING: -18-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE
HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND
DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 284 OF 2021
AGAINST THE JUDGMENT WP(C) 10725/2020 OF HIGH COURT OF
KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER, STATE
GOODS AND SERVICES TAX DEPOARTMENT, SPECIAL CIRCLE-III,
ERNAKULAM, COCHIN, PIN-682 015. 2 THE COMMISSIONER OF
COMMERCIAL TAXES GOODS AND SERVICES TAX DEPARTMENT,
TAX TOWER, KARAMANA P.OM, THIRUVANANTHAPHURAM-695
002. BY SPL GOVERNMENT PLEADER (TAXES)MR MOHAMMED
RAFIQ RESPONDENT/S: COCHIN FIRE TECH, ERNAKULAM NORTH,
COCHIN-18, REPRESENTED BY ITS MANAGING PARTNER
M.P.SREEKUMAR. BY ADVOCATE R.MURALEEDHARAN THIS WRIT
APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG
WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING: -19-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE
HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND
DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 383 OF 2020
AGAINST THE JUDGMENTWP(C) 6766/2019 OF HIGH COURT OF
KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER, STATE

GOODS AND SERVICE TAX DEPARTMENT, PATHANAMTHITTA-689 645. 2 THE COMMISSIONER, COMMERCIAL TAXES, THIRUVANANTHAPURAM-695 001. 3 STATE OF KERALA, REPRESENTED BY SECRETARY(TAXES), TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: M/S.SHEENA GOLDEN JEWELS (INDIA) (P) LTD., XX1/1016(2), COLLEGE ROAD, PATHANAMTHITTA, REP.BY ITS DIRECTOR, MR.M.P.AHAMMED BASHEER, PIN-689 645. BY ADV K P ABDUL AZEEZ THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -20-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 333 OF 2020 AGAINST THE JUDGMENT WP(C) 10718/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASSISTANT COMMISSIONER OF STATE TAX, SPECIAL CIRCLE-I, CALICUT-673006. 2 GOVERNMENT OF KERALA, REPRESENTED BY CHIEF SECRETARY, THIRUVANANTHAPURAM-695001. 3 COMMISSIONER OF COMMERCIAL TAXES, THIRUVANANTHAPURAM-695001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: PRIYADARSHANI, AGED 79 YEARS PROP.INTER SOURCE EXPORTS (P)LTD, WAYANAD ROAD, CALICUT-673001. REP.BY K.T.RAGHUNATH, MANGING DIRECTOR. BY ADVS. SRI.P.RAGHUNATH; SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -21-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 343 OF 2020 AGAINST THE JUDGMENT WP(C) 36953/2018 OF HIGH COURT OF KERALA APPELLANT/S: 1 STATE TAX OFFICER, WORKS CONTRACT,STATE GOODS AND SERVICE TAX DEPARTMENT,KOZHIKODE-673006. 2 THE COMMISSIONER, COMMERCIAL TAXES, THIRUVANANTHAPURAM-695001. 3 STATE OF KERALA, REPRESENTED BY SECRETARY(TAXES), SECRETARIAT,THIRUVANANTHAPURAM-695001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: CALICUT LAND MARK BUILDERS AND DEVELOPERS INDIA(P)LTD., MINI BYE PASS ROAD,PUTHIYARA(PO), KOZHIKODE-673014. BY ADV K P ABDUL AZEEZ THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -22-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 339 OF 2020 AGAINST THE JUDGMENT WP(C) 10820/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER (WORKS CONTRACT) OFFICE OF THE DEPUTY COMMISSIONER, KERALA STATE GOODS AND SERVICE TAX DEPARTMENT,ERNAKULAM-682 015. 2 THE DEPUTY COMMISSIONER, KERALA STATE GOODS AND SERVICE TAX DEPARTMENT,ERNAKULAM-682 015. 3 STATE OF KERALA, REPRESENTED BY ITS FINANCE SECRETARY,SECRETARIAT, THIRUVANANTHAPURAM-695 001. BY SPL GOVERNMENT

PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: M/S ZODIAC ADVERTISERS, P.B.NO.2064,KADAVANTHRA,KOCHI- 20., REP.BY ITS MANAGING PARTNER JOHNSON V.GEORGE. BY ADV SANTHOSH P ABRAHAM THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -23-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 379 OF 2020 AGAINST THE JUDGMENT WP(C) 8779/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER, II CIRCLE, STATE GOODS AND SERVICES TAX DEPARTMENT, KANNUR - 670 003. 2 THE COMMISSIONER, COMMERCIAL TAXES, THIRUVANANTHAPURAM - 695 001. 3 STATE OF KERALA, REPRESENTED BY SECRETARY (TAXES), TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM - 695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: TALASH PLASTOPACKS, SWARAJ PLYWOOD ROAD, PAPPINISSERI, KANNUR - 670 561, REP. BY ITS MANAGING PARTNER, LABEEB P. T. P. BY ADV K P ABDUL AZEEZ THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -24-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 342 OF 2020 AGAINST THE JUDGMENT WP(C) 1125/2019 OF HIGH COURT OF

KERALA APPELLANT/S: 1 STATE TAX OFFICER, 4TH CIRCLE, STATE GOODS AND SERVICE TAX DEPARTMENT, KOZHIKODE-673004 2 THE COMMISSIONER, COMMERCIAL TAXES, THIRUVANANTHAPURAM-695001 3 STATE OF KERALA, REPRESENTED BY SECRETARY(TAXES) SECRETARIAT, THIRUVANANTHAPURAM-695001 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: BADARUDDEEN P.C, AGED 40 YEARS PROPRIETOR, M/S.BADAR TYRES, KODUVALLY, KOZHIKODE BY ADV K P ABDUL AZEEZ THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -25-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 314 OF 2020 AGAINST THE JUDGMENT WP(C) 14071/2019 OF HIGH COURT OF KERALA APPELLANT/S:

1 THE ASSISTANT COMMISSIONER, WORKS CONTRACT, STATE GOODS AND SERVICE TX DEPARTMENT, THIRUVANANTHAPURAM-695 002. 2 THE COMMISSIONER, STATE GOODS AND SERVICE TAX DEPARTMENT, THIRUVANANTHAPURAM-695 002. 3 STATE OF KERALA, REPRESENTED BY THE SECRETARY(TAXES), SECRETARIAT, THIRUVANANTHAPURAM-695 001. 4 THE DEPUTY COMMISSIONER (APPEALS), STATE GOODS AND SERVICE TAX DEPARTMENT, THIRUVANANTHAPURAM-695 002. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: THAJUDEEN.A., PP 7/357, THOPPIL VEEDU, THOLIKUZH, ADAYAMOM P.O., THIRUVANANTHAPURAM,

REPRESENTED BY ITS PROPRIETOR, SRI.THAJUDEEN.A. BY ADV K P ABDUL AZEEZ THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -26-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 323 OF 2020 AGAINST THE JUDGMENT WP(C) 30131/2019 OF HIGH COURT OF KERALA APPELLANT/S:

1 STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO TAXES, DEPARTMENT OF GOODS AND SERVICE SECRETARIAT, THIRUVANANTHAPURAM 695 002. 2 THE STATE TAX OFFICER, STATE GOOS AND SERVICE TAX PRETREATMENT , 2ND CIRCLE, KALAMASSERY, CIVIL STATION, KAKKANAD, ERNAKULAM 682 030. 3 THE DEPUTY TAHSILDAR, AUTHORIZED OFFICER, KANAYANNUR TALUK, ERNAKULAM DISTRICT 682 018. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S:

1 P.K.SALIM, AGED 50 YEARS, S/O. LATE KOCHUMUHAMMED, RESIDING AT PAZHANGATTU HOUSE, THENGOD P.O. KAKKANAD, KOCHI 682 030, REP. BY ITS PARTNER OF M/S. CHAKKIES MEDICALS, KAKKANAD, KOCHI 30. 2 P.K. ALI, AGED 53 YEARS, S/O. KOCHUMUHAMMED, RESIDING AT PAZHANGATTU HOUSE, THENGOD P.O. KAKKANAD, KOCHI 682 030, REP. BY ITS PARTNER OF M/S. CHAKKIES MEDICALS, KAKKANAD, KOCHI 30. THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022,

ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -27-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 365 OF 2020 AGAINST THE JUDGMENT WP(C) 9700/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASSISTANT COMMISSIONER, SPECIAL CIRCLE-I, SGST DEPARTMENT, KOZHIKODE - 673 006 2 GOVERNMENT OF KERALA, REPRESENTED BY CHIEF SECRETARY, THIRUVANANTHAPURAM - 695 001 3 COMMISSIONER OF COMMERCIAL TAXES, THIRUVANANTHAPURAM - 695 001 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: DEERA DISTRIBUTORS, CUSTOM ROAD, KOZHIKODE - 673 032 REP. BY DILIP C. PATEL, MANAGING PARTNER BY ADVS. SRI.P.RAGHUNATH; SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -28-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 361 OF 2020 AGAINST THE JUDGMENT WP(C) 8746/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER, 3RD CIRCLE, STATE GOODS AND SERVICE TAX DEPARTMENT, KOZHIKODE-673006. 2 THE COMMISSIONER, COMMERCIAL TAXES, THIRUVANANTHAPURAM-695001. 3 STATE OF KERALA, REPRESENTED BY SECRETARY(TAXES), TAXES DEPARTMENT,

SECRETARIAT, THIRUVANANTHAPURAM-695001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: HAPPY TIMES, GOLDEN PLAZA BUILDING, MAVOOR ROAD, KOZHIKODE, REPRESENTED BY MANAGING PARTNER, MR. PAKRAN. BY ADV K P ABDUL AZEEZ THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -29-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 412 OF 2020 AGAINST THE JUDGMENTWP(C) 20515/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 COMMERCIAL TAX OFFICER (WC), OFFICE OF THE DEPUTY COMMISSIONER, STATE GST DEPARTMENT, ERNAKULAM-682616. 2 THE COMMISSIONER OF STATE TAXES, TAX TOWER, KILLIPPALAM, KARAMANAP.O., THIRUVANANTHAPURAM-695002. 3 THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO TAXES, SECRETARIAT, THIRUVANANTHAPURAM-695002. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: M/S. UNITED BUILDERS, NO.34/1695-B7, NATIONAL RESIDENCY, SHOPPING COMPLEX, EDAPPALLI, KOCHI, PIN-682024, REPRESENTED BY ITS PARTNER SOJAN XAVIER. BY ADV HAJARA.M.K THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -30-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND

DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 328 OF 2020 AGAINST THE JUDGMENT WP(C) 12500/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER, SPECIAL CIRCLE-II, STATE GOODS AND SERVICE TAX DEPARTMENT, KOZHIKODE-673 006 2 THE COMMISSIONER, STATE GOODS AND SERVICE TAX DEPARTMENT, THIRUVANANTHAPURAM-695 001 3 STATE OF KERALA, REPRESENTED BY SECRETARY (TAXES) SECRETARIAT, THIRUVANANTHAPURAM-695 001 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: M/S VEEKESY POLIMERS, RAMANATTUKARA, KOZHIKODE-673 633, REP BY ITS MANAGING DIRECTOR, REFEEQUE.V. BY ADV K P ABDUL AZEEZ THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -31-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 324 OF 2020 AGAINST THE JUDGMENT WP(C) 16094/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER, SPECIAL CIRCLE,. DEPARTMENT OF COMMERCIAL TAXES, STATE GST DEPARTMENT KERALA, PALAKKAD 678 001. 2 THE COMMISSIONER OF COMMERCIAL, TAXES, DEPARTMENT OF COMMERCIAL TAXES, THIRUVANANTHAPURAM 695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: SURABHI STEEL CASTINGS (P)LTD NEW INDUSTRIAL DEVELOPMENT ARE KANIKODE .O. PALAKKAD 678 621, REPRESENTED BY ITS DIRECTOR SRI. SIAUDEEN M.A.. BY ADVOCATE SOJAN JAMES THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND

CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -32-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 332 OF 2020 AGAINST THE JUDGMENT WP(C) 22104/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER OF STATE TAX STATE GOODS SERVICE TAX DEPARTMENT KERALA SPECIAL CIRCLE PALAKKAD-678 001. 2 STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 002. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: M/S BANNARI AMMAN STEELS (P) LTD. NATTUKKAL, CHITTUR, PALAKKAD, REPRESENTED BY ITS MANAGING DIRECTOR, SRI. R.ELANGO VAN. BY ADV N MURALEEDHARAN NAIR THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -33-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 385 OF 2020 AGAINST THE JUDGMENT WP(C) 16778/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER, STATE GOODS AND SERVICES TAX DEPARTMENT, 2ND CIRCLE, PALAKKAD, PALAKKAD DISTRICT, PIN-678 001. 2 STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT

SECRETARIAT, THIRUVANANTHAPURAM,PIN-695 002. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: ABDUL RAHIMAN P.V, AGED 62 YEARS, AGED 62 YEARS,PROPRIETOR,M/S.KOYAS AGENCIES, DISTRICT,PALAKKAD,PIN-678 501. BY ADV ANNIES GEORGE THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -34-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 2 OF 2020 AGAINST THE JUDGMENTWP(C) 14570/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 STATE TAX OFFICER-I, SPECIAL CIRCLE,STATE GOODS AND SERVICES TAX DEPARTMENT,MATTANCHERY AT ALUVA-683101. THIRUVANANTHAPURAM 2 THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TAXES DEPARTMENT,GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM-695001. 3 THE COMMISSIONER OF STATE TAX, SGST DEPARTMENT, GOVERNMENT OF KERALA, TAX TOWER,KARAMANA.P.O, THIRUVANANTHAPURAM-695002. BY ADV GOVERNMENT PLEADER RESPONDENT/S: -35- MOLLY GEORGE PROPRIETRIX,M/S.GEO TRADERS,PDDP OLD BUILDING,MARITTICHODU,KALADY, ERNAKULAM DISTRICT. THIRUVANANTHAPURAM BY ADV ADV.P.S.SOMAN(B/O) THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -36-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 398 OF 2020 AGAINST THE JUDGMENTWP(C) 11653/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER, KERALA STATE GOODS AND SERVICE TAX DEPARTMENT, IV CIRCLE, ERNAKULAM-682018 2 THE DEPUTY COMMISSIONER, KERALA STATE GOODS AND SERVICE TAX DEPARTMENT, ERNAKULAM-682015 3 STATE OF KERALA, REP. BY ITS FINANCE SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM-695001 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: SHIBI BABU, AGED 43 YEARS, PROPRIETOR, M/S. GLORIA SERVICES, 39/6180-A, SECOND FLOOR CEARS BUILDINGS, ALAPATTU CROSS ROAD, RAVIPURAM, ERNAKULAM BY ADV S K DEVI THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -37-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 400 OF 2020 AGAINST THE JUDGMENT WP(C) 23616/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER OF STATE TAX WORKS CONTRACT STATE GOODS AND SERVICE TAX DEPARTMENT, THIRUVANANTHAPURAM-695002 2 THE COMMISSIONER, STATE GOODS AND SERVICE TAX DEPARTMENT, THIRUVANANTHAPURAM-695002 3 STATE OF KERALA, REP BY SECRETARY (TAXES), SECRETARIAT, THIRUVANANTHAPURAM-695001 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: CHANDRA BABU

G., AGED 35 YEARS, T.C.9/570, SREEDHANYA C-4, JAWAHAR NAGAR, THIRUVANANTHAPURAM. BY ADV K P ABDUL AZEEZ THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -38-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 399 OF 2020 AGAINST THE JUDGMENT WP(C) 4417/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASSISTANT COMMISSIONER OF STATE TAX, SPECIAL CIRCLE-1, STATE GST DEPARTMENT, KOZHIKODE-673006 2 GOVERNMENT OF KERALA, REP BY CHIEF SECRETARY, THIRUVANANTHAPURAM-695001 3 THE COMMISSIONER OF STATE TAX, STATE GST DEPARTMENT, THIRUVANANTHAPURAM-695001 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: PLAST O PLAST, V.K.KRISHNA MENON ROAD, KALLAI, KOZHIKODE- 673003. REP BY P.B.I. MOHAMED ASHRAF, PARTNER, BY ADVS. SRI.P.RAGHUNATH; SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -39-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 402 OF 2020 AGAINST THE JUDGMENT WP(C) 7648/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER, SPECIAL CIRCLE, STATE GOODS AND SERVICE TAX

DEPARTMENT, PALAKKAD 678 014. 2 THE COMMISSIONER, COMMERCIAL TAXES, THIRUVANANTHAPURAM 695 001. 3 STATE OF KERALA, REP. BY SECRETARY (TAXES), TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM 695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: MINAR CASTINGS (P) LTD., CASTINGS (P) LTD. NIDS, KANJIKODE, PALAKKAD, REP. BY ITS DIRECTOR A. MOHAMMED HANEEFA. BY ADV K P ABDUL AZEES THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -40-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 480 OF 2020 AGAINST THE JUDGMENT WP(C) 17041/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER OF STATE TAX WORKS CONTRACT, STATE GOODS AND SERVICE TAX DEPARTMENT, THIRUVANANTHAPURAM 695 002. 2 THE COMMISSIONER, STATE GOODS AND SERVICE TAX DEPARTMENT, THIRUVANANTHAPURAM 695 002. 3 STATE OF KERALA, REP. BY SECRETARY (TAXES), SECRETARIAT, THIRUVANANTHAPURAM 695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: M/S. SREEDHANYA HOMES (P) LTD., T.C. 9/875., SASTHAMANGALAM, THIRUVANANTHAPURAM , REP. BY ITS MANAGING DIRECTOR, DHANYA BABU. BY ADV ABDUL AZEEZ THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -41-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 394 OF 2020 AGAINST THE JUDGMENT WP(C) 18800/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 STATE TAX OFFICER, SECOND CIRCLE STATE GOODS AND SERVICE TAX DEPARTMENT TAX COMPLEX, MATTANCHERRY, KOCHI- 2 STATE OF KERALA, SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: ABDUL WAHAB, AGED 69 YEARS, PROPRIETOR, COCHIN MARINE SUPPLIERS 24/1559, AGHIL BUILDING, INDIRA GANDHI ROAD, WILLINGTON ISLAND, KOCHI-682003 BY ADV K.N.SREEKUMARAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -42-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 437 OF 2020 AGAINST THE JUDGMENT WP(C) 7323/2019 OF HIGH COURT OF KERALA APPELLANT/S:

1 THE STATE TAX OFFICER, KERALA STATE GOODS AND SERVICE TAX DEPARTMENT, CHAVAKKAD-680 506. 2 THE DEPUTY COMMISSIONER, KERALA STATE GOODS AND SERVICE TAX DEPARTMENT, POOTHOLE, THRISSUR-680 004. 3 THE ASSISTANT COMMISSIONER OF STATE TAX, KERALA STATE GOODS AND SERVICE TAX DEPARTMENT, IRINJALAKUDA-680 125. 4 STATE OF KERALA, REPRESENTED BY ITS FINANCE SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM-695 001. BY SPL

GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: ELAVALLY SERVICE CO-OPERATIVE BANK LTD. VAKA P.O., MATTOM, THRISSUR DISTRICT, REPRESENTED BY ITS SECRETARY IN CHARGE BINY.A.M. BY ADV S K DEVI THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -43-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 490 OF 2020 AGAINST THE JUDGMENT WP(C) 12630/2019 OF HIGH COURT OF KERALA APPELLANT/S:

1 STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001. 2 THE COMMISSIONER OF STATE TAX STATE GST DEPARTMENT, THIRUVANANTHAPURAM - 695 001. 3 ASSISTANT COMMISSIONER OF STATE TAX, SPECIAL CIRCLE, STATE GST DEPARTMENT, KOZHIKODE - 673 006. 4 STATE TAX OFFICER, 2ND CIRCLE, OFFICE OF THE STATE TAX OFFICER, 2ND CIRCLE, SGST DEPARTMENT, KOZHIKODE - 673 006. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: M/S. MILLENNIUM AUDIOS, 6/459, PUTHIYEDATH BUILDING, BANK ROAD, KOZHIKODE - 673001, REP. BY ITS PROPRIETOR P. SAJITH. THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -44-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 463 OF 2020 AGAINST THE JUDGMENT WP(C) 27872/2019 OF HIGH COURT OF KERALA APPELLANT/S:

1 STATE TAX OFFICER, 2ND CIRCLE, STATE GOODS AND SERVICE TAX DEPARTMENT, TRIPUNITHURA-682301. 2 STATE OF KERALA, REP. BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001. 3 ASSISTANT COMMISSIONER OF STATE TAX, STATE GOODS AND SERVICES TAX DEPARTMENT, 2ND FLOOR, CIVIL STATION, KAKKANAD, KOCHI-682030. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: 1 COCHIN DRUGS AND PARENTERALS VARIKKOLI P.O., PIN-682308, ERNAKULAM DISTRICT. (REP. BY SMT.P.D.BINDU, AUTHORIZED SIGNATORY) 2 BRANCH MANAGER, THE FEDERAL BANK LTD., VYTILA, KOCHI-682019, ERNAKULAM DISTRICT. -45- BY ADV K.N.SREEKUMARAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -46-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 431 OF 2020 AGAINST THE JUDGMENT WP(C) 28775/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER, SGST DEPARTMENT, 2ND CIRCLE, KALAMASSERY AT KAKKANAD, ERNAKULAM-682 030 2 STATE ASSISTANT COMMISSIONER, SGST DEPARTMENT, ERNAKULAM-682 030 BY SPL GOVERNMENT

PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: GREEN BAND FOODS INDIA (P)LTD., 39A,CSEZ,KAKKANAD, ERNAKULAM,REP BY ITS MANAGING DIRECTOR XAVIER MOOLAYIL AGED 67 YEARS, S/O. CHACKO JOSEPH BY ADV HARISHANKAR V MENON THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -47-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 448 OF 2020 AGAINST THE JUDGMENTWP(C) 17655/2019 OF HIGH COURT OF KERALA APPELLANT/S:

1 STATE TAX OFFICER, 1ST CIRCLE, SGT DEPARTMENT, TAX TOWER, KARAMANA P.O.THIRUVANANTHAPURAM-695 002. 2 THE STATE OF KERALA, REP. BY THE SECRETARY, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001. 3 THE COMMISSIONER OF STATE TAX, SGST DEPARTMENT , GOVERNMENT OF KERALA, TAX TOWER, KARAMANA P.O.THIRUVANANTHAPURAM-695 002. 4 ASSISTANT COMMISSIONER OF STATE TAX, SGST DEPARTMENT, TAX TOWER, KARAMANA P.O.THIRUVANANTHAPURAM-695 002. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: HOTELTEK BEVERAGES (P) LTD. TC.8/1878(3) , MAVELIKKALAM, UDAYAGIRI NAGAR, THIRUMALA P.O.THIRUVANANTHAPURAM, REP. BY M.R NARAYANAN, MANAGING DIRECTOR. BY ADV SOMAN PULLADAN -48- THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE

SAME DAY DELIVERED THE FOLLOWING: -49-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 447 OF 2020 AGAINST THE JUDGMENT WP(C) 11973/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 STATE TAX OFFICER (WORKS CONTRACT), STATE GOODS AND SERVICE TAX DEPARTMENT, WORKS CONTRACT, TAX TOWERS KARAMANA, THIRUVANANTHAPURAM, PIN-695 002. 2 THE STATE OF KERALA, REP. BY THE PRINCIPAL SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: EHITUS BUILDERS INTERIORS AND REALTORS, TC 4/1702, 1, HOUSE NO 2, BELHAVEN GARDENS, KOWDIAR, P.O.THIRUVANANTHAPURAM, REP. BY ITS MANAGING PARTNER R. PADMAKUMAR. BY ADVS.RAHUL A.; S.ANIL KUMAR (TRIVANDRUM)(K/11/2006) M.RAJAGOPAL(K/000429/2017) THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -50-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 591 OF 2020 AGAINST THE JUDGMENT WP(C) 10404/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 STATE OF KERALA, REP. BY ITS SECRETARY (TAXES) GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001. 2 THE ASSISTANT

COMMISSIONER (WORKS CONTRACT), STATE GOODS AND SERVICE TAX DEPARTMENT, SGST COMPLEX, PERUMANOOR, ERNAKULAM, KOCHI - 682 015. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: CHAKOLAS HOMES (P) LTD., KUTTAMPARAMBIL BUILDINGS, PANDITKARUPPAN ROAD, THEVARA, ERNAKULAM - 682 013, REP. BY ITS MANAGING DIRECTOR, MR.MATHEW L.CHAKOLAS. BY ADV A KUMAR THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -51-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 451 OF 2020 AGAINST THE JUDGMENTWP(C) 19794/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER, SPECIAL CIRCLE-2, GOODS AND SERVICES TAX DEPARTMENT, SALES TAX COMPLEX BUILDING, 5TH FLOOR, JAWAHAR NAGAR COLONY, ERNAHIPALAM P.O., KOZHIKODE-673 006 2 THE SALES TX OFFICER (RECOVERY), OFFICE OF THE DEPUTY COMMISSIONER, COMMERCIAL TAXES DEPARTMENT, KOZHIKODE- BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: TEEKAY TILES AND GRANITES, DOOR NO.PP VII/2017 CDEF,ENGAPUZHA SOUTH, PUDUPADI-673 586, REP BY ITS PARTNER RASAL AKBAR A.K. BY ADV K S HARIHARAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -52-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 449 OF 2020 AGAINST THE JUDGMENT WP(C) 30256/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 STATE TAX OFFICER, 1ST CIRCLE, STATE GOODS AND SERVICES TAX DEPARTMENT, CIVIL STATION, ALAPPUZHA-688 001 2 STATE OF KERALA, REP BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,PIN-695 3 INSPECTING ASSISTANT COMMISSIONER, STATE GOODS AND SERVICES TAX DEPARTMENT, CIVIL STATION, ALAPPUZHA-688 001 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: 1 SHEELA MOHANDAS AGED 57 YEARS PROPRIETRESS, MOHANS HOME SHOPPE, THIRUVAMPADY, ALAPPUZHA,PIN-688 009 -53- 2 THE BRANCH MANAGER, STATE BANK OF INDIA, ALAPPUZHA TOWN BRANCH, IRON BRIDGE P.O., ALAPPUZHA-688 011 BY ADVS. SRI.K.K.CHANDRAN PILLAI (SR.) SMT.S.AMBILY THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -54-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 467 OF 2020 AGAINST THE JUDGMENT WP(C) 32439/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER (WORKS CONTRACT) OFFICE OF THE DEPUTY COMMISSIONER, STATE GOODS AND SERVICES TAX DEPARTMENT, MATTANCHERY-682002 2 THE DEPUTY COMMISSIONER, KERALA STATE GOODS AND SERVICE TAX DEPARTMENT COMMERCIAL TAX COMPLEX,

ERNAKULAM- 3 STATE OF KERALA, REP. BY ITS FINANCE SECRETARY, SECRETARY, THIRUVANANTHAPURAM-695001 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: OPAC ENGINEERING (P) LTD. REP. BY ITS MANAGING DIRECTOR, DILEEP KUMAR.P.V BY ADV S K DEVI THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -55-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 512 OF 2020 AGAINST THE JUDGMENT WP(C) 12182/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASST. COMMISSIONER OF STATE TAX (WORKS CONTRACT), STATE GOODS AND SERVICES TAX DEPARTMENT, TAX TOWERS, KARAMANA, THIRUVANANTHAPURAM, PIN - 695002. 2 THE STATE OF KERALA, REP. BY THE PRINCIPAL SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: POORNA BHARATH GAS AGENCY, UDIYANKULANGARA, AMARAVILA P.O., THIRUVANANTHAPURAM DISTRICT - 695 122, REP. BY ITS PROPRIETRESS DHARSANA VISHNU. BY ADVS. RAHUL A.; S.ANIL KUMAR (TRIVANDRUM)(K/11/2006) M.RAJAGOPAL(K/000429/2017) THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -56-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 459 OF 2020 AGAINST THE JUDGMENTWP(C) 10751/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 STATE TAX OFFICER, 3RD CIRCLE,STATE GOODS AND SERVICE TAX DEPARTMENT,KOZHIKODE-673006. 2 THE COMMISSIONER, STATE GOODS AND SERVICE TAX DEPARTMENT,THIRUVANANTHAPURAM-695001. 3 STATE OF KERALA, REP.BY ITS SECRETARY(TAXES), SECRETARIAT,THIRUVANANTHAPURAM-695001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: MALABAR GOLD (P) LTD, RAM MOHAN ROAD,KOZHIKODE-673004, REP.BY ITS DIRECTOR,MR.ABDUL MAJEED.M. BY ADV K P ABDUL AZEEZ THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -57-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 477 OF 2020 AGAINST THE JUDGMENT WP(C) 10420/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER OF STATE TAX, STATE GOODS AND SERVICES TAX DEPARTMENT, SPECIAL CIRCLE, BEHIND CIVIL STATION, PALAKKAD, PIN - 678 001. 2 THE STATE OF KERALA, REP. BY THE PRINCIPAL SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: MARICO LTD., VIII/761A, NIDA MENONPARA

ROAD, KANJIKODE, PALAKKAD - 678 621, REP. BY ITS
AUTHORIZED SIGNATORY SREENIVASAN T. BY ADVS. RAHUL A.;
S.ANIL KUMAR (TRIVANDRUM)(K/11/2006)
M.RAJAGOPAL(K/000429/2017) THIS WRIT APPEAL HAVING COME
UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING: -58-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE
HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND
DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 520 OF 2020
AGAINST THE JUDGMENT WP(C) 17629/2019 OF HIGH COURT OF
KERALA APPELLANT/S:

1 THE STATE TAX OFFICER STATE G.S.T DEPARTMENT, FIRST
CIRCLE, ALAPPUZHA-688001. 2 ASSISTANT COMMISSIONER OF
STATE TAX STATE G.S.T DEPARTMENT, ALAPPUZHA-688001. 3
THE COMMISSIONER OF STATE TAXES, TAX TOWER,
KILLIPPALAM, KARAMANA PO, THIRUVANANTHAPURAM-695002. 4
THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO
TAXES, SECRETARIAT, THIRUVANANTHAPURAM-695002. BY SPL
GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: -59- KERALA STATE CIVIL SUPPLIES
CORPORATION LTD. (SUPPLICO DISTRICT DEPOT), ALAPPUZHA-
690534, REPRESENTED BY ITS JUNIOR MANAGER, (IN CHARGE OF
DEPORT MANAGER) SRI.R.SANJAYNATH BY ADV AJI V.DEV THIS
WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022,
ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING: -60-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 475 OF 2020 AGAINST THE JUDGMENT WP(C) 13957/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER, STATE GOODS AND SERVICES TAX DEPARTMENT, PAYYANNUR, KANNUR DISTRICT - 670 307. 2 THE STATE OF KERALA, REP. BY THE PRINCIPAL SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: TRADE HOUSE, PERUMBA, PAYYANNUR, KANNUR DISTRICT - 670307 REP. BY ITS PROPRIETOR, SHAKEER ALI. BY ADVS.RAHUL A.,S.ANIL KUMAR (TRIVANDRUM)(K/11/2006) M.RAJAGOPAL(K/000429/2017) THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -61-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 481 OF 2020 AGAINST THE JUDGMENTWP(C) 11776/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASSISTANT COMMISSIONER OF STATE TAX STATE GOODS AND SERVICES TAX DEPARTMENT, WORKS CONTRACT, TAX TOWERS, THIRUVANANTHAPURAM 695 002. 2 THE STATE OF KERALA, REP. BY THE PRINCIPAL SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARY, THIRUVANANTHAPURAM. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: ASTRIDE BUILDERS AND DEVELOPERS(P)LIMITED TC 1017 18 1ST AND 2ND FLOOR, BINDEEPAM, PIPPINMOODU, PEROORKADA,

THIRUVANANTHAPURAM 695 005, REP. BY IT MANGING DIRECTOR SYAM D. PILLAI. BY ADVS. RAHUL A. M.RAJAGOPAL(K/000429/2017) S.ANIL KUMAR (TRIVANDRUM)(K/11/2006) THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -62-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 497 OF 2020 AGAINST THE JUDGMENTWP(C) 16907/2019 OF HIGH COURT OF KERALA APPELLANT/S:

1 STATE TAX OFFICER, WORKS CONTRACT, STATE GOODS AND SERVICE TAX DEPARTMENT, PERUMANOOR, THEVARA, ERNAKULAM, KOCHI - 682015. 2 STATE OF KERALA, REP. BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001. 3 THE ASSISTANT COMMISSIONER, RECOVERY, STATE GOODS AND SERVICES TAX DEPARTMENT, KAKKANAD, KOCHI - 682 030. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: ROYAL ENTERPRISES, XXI/652, 2ND FLOOR, STATUS JUNCTION, TRIPUNITHURA, PIN - 682 301, ERNAKULAM DISTRICT (REP. BY SRI.NANDAKUMAR M., PARTNER). BY ADV K.N.SREEKUMARAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -63-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 518 OF 2020 AGAINST THE JUDGMENT WP(C) 14833/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE COMMISSIONER OF STATE GOODS AND SERVICE TAX DEPARTMENT KERALA TAX TOWER, KILLIPPALAM, KARAMANA, THIRUVANANTHAPURAM, PIN-695 002. 2 THE STATE TAX OFFICER WORKS CONTRACT, KOLLAM, SGST DEPARTMENT, KOLLAM, PIN-691 002. 3 STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: VENKITESH PRASAD AGED 35 YEARS PROPRIETOR, M/S. PRESEDIUM GROUP, ULİYAKOVIL, KOLLAM DISTRICT, PIN-691 002. BY ADV BOBBY JOHN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -64-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 540 OF 2020 AGAINST THE JUDGMENT WP(C) 8594/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASSISTANT COMMISSIONER OF STATE TAX, STATE GOODS AND SERVICE TAX, WORKS CONTRACT, THIRUVANANTHAPURAM-695 001. 2 STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001. 3 INSPECTING ASSISTANT COMMISSIONER, DEPARTMENT OF COMMERCIAL TAXES, THIRUVANANTHAPURAM-695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: M/S.

CORDIAL COMPANY, NARAYANA BHAVAN,TC 9/2196,KURUPS LANE,SASTHAMANGALAM, THIRUVANANTHAPURAM-695 010. REPRESENTED BY ITS PATNER-N.AYYAPPAN UNNITHAN. BY ADV SRI.MAYANKUTTY MATHER(B/O) THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -65-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 516 OF 2020 AGAINST THE JUDGMENT WP(C) 16162/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER SPECIAL CIRCLE, DEPARTMENT OF COMMERCIAL TAXES, STATE GST DEPARTMENT, KERALA, PALAKKAD-678 001. 2 THE COMMISSIONER OF COMMERCIAL TAXES DEPARTMENT OF COMMERCIAL TAXES, THIRUVANANTHAPURAM-695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: SURABHI STEEL TUBES (P) LTD. NEW INDUSTRIAL DEVELOPMENT AREA, KANJIKODE P.O., PALAKKAD-678 621 REPRESENTED BY ITS DIRECTOR M.A.ZIAUDEEN. BY ADV SOJAN JAMES THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -66-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 589 OF 2020 AGAINST THE JUDGMENT TP(C) 11206/2019 OF HIGH COURT OF

KERALA APPELLANT/S: 1 THE STATE TAX OFFICER STATE GOODS AND SERVICES TAX DEPARTMENT, FIRST CIRCLE, PALAKKAD, PIN-678 001. 2 THE STATE OF KERALA, REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: MANGALY INDUSTRIES (P)LIMITED 10/285, RED HILL ESTATE, KALLEKULANGARA, PALAKAKD, REPRESENTED BY ITS MANAGING DIRECTOR JOE MANGALY. BY ADVS. SRI.S.ANIL KUMAR(B/O), RAHUL A. S.ANIL KUMAR (TRIVANDRUM)(K/11/2006), M.RAJAGOPAL(K/000429/2017) THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -67-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 514 OF 2020 AGAINST THE JUDGMENTWP(C) 21453/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASSISTANT COMMISSIONER, SPECIAL CIRCLE-III, STATE GOODS AND SERVICE TAX DEPARTMENT, THEVARA, ERNAKULAM, KOCHI- 682 015. 2 STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: JAGDISH KUMAR BURDAK AGED 46 YEARS PROPRIETOR GRANITE CENTRE, OPP. ROCK ROSE TOURIST HOME, N.H. BYEPASS, VENNALA P.O., KOCHI-682 028. BY ADV K.N. SREEKUMAR THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND

CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -68-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 562 OF 2020 AGAINST THE JUDGMENT WP(C) 16214/2019 OF HIGH COURT OF KERALA APPELLANT/S:

1 THE ASSISTANT COMMISSIONER OF STATE TAX WORKS CONTRACT, STATE GOODS AND SERVICE TAX DEPARTMENT, THIRUVANANTHAPURAM-695002. 2 THE COMMISSIONER, STATE GOODS AND SERVICE TAX DEPARTMENT, THIRUVANANTHAPURAM-695002. 3 STATE OF KERALA, REP. BY SECRETARY (TAXES), SECRETARIAT, THIRUVANANTHAPURAM-695001. 4 DEPUTY COMMISSIONER (APPEALS), STATE GOODS AND SERVICE TAX DEPARTMENT, THIRUVANANTHAPURAM-695002. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: -69- M/S.ARJUN VAASTU BUILDERS AND ENGINEERS (P) LTD., UTHRADOM, TC 11/2100(5), POTTAKKUZHY, THEKKUMOODU ROAD, PATTOM P.O., THIRUVANANTHAPURAM-695004, REP. BY ITS MANAGING DIRECTOR B.ARJUNAN. BY ADV K.P ABDHUL AZEEZ THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -70-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND

DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 487 OF 2020 AGAINST THE JUDGMENT WP(C) 11648/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE OF KERALA, REPRESENTED BY THE PRINCIPAL SECRETARY GOVERNMENT TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001. THIRUVANANTHAPURAM 2 THE ASSISTANT COMMISSIONER (WORKS CONTRACT), OFFICE OF THE DEPUTY COMMISSIONER, STATE GOODS AND SERVICE TAX DEPARTMENT, REVENUE TOWER, 9TH FLOOR, ERNAKULAM-682 011. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: DRIPLEX WATER ENGINEERING LTD, C/O.BHARATH PETROLEUM CORPORATION LTD., KOCHI REFINERY, ERNAKULAM-682 302, REPRESENTED BY ITS AUTHORIZED SIGNATORY SHRI.MADHAVAN NARAYANKUTTY. THIRUVANANTHAPURAM THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -71-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 630 OF 2020 AGAINST THE JUDGMENT WP(C) 27742/2019 OF HIGH COURT OF KERALA APPELLANT/S:

1 AGRICULTURAL INCOME TAX AND STATE TAX OFFICER STATE GOODS AND SERVICE TAX DEPARTMENT, RANNI, PATHANAMTHITTA-689672. 2 THE STATE OF KERALA, REP. BY THE SECRETARY, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001. 3 THE COMMISSIONER OF STATE TAX, STATE GOODS AND SERVICE TAX DEPARTMENT, TAX TOWER, KARAMANA P.O., THIRUVANANTHAPURAM-695002. 4

DEPUTY TAHSILDAR (RR), TALUK OFFICE, RANNI, PATHANAMTHITTA-689672. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: P. AJITHKUMAR, AGED 42 YEARS PROPRIETOR, M/S.PARAPARAMBIL MOTORS, THOTTAMON, RANNI, PATHANAMTHITTA-689672. BY ADV P S SOMAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -72-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 574 OF 2020 AGAINST THE JUDGMENT WP(C) 4416/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER OF STATE TAX SPECIAL CIRCLE - II, STATE GST DEPARTMENT, KOZHIKODE - 673 006. 2 GOVERNMENT OF KERALA, REP. BY CHIEF SECRETARY, THIRUVANANTHAPURAM - 695 001. 3 THE COMMISSIONER OF STATE TAX, STATE GST DEPARTMENT, THIRUVANANTHAPURAM - 695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: CEE VEE FOOTWEAR (INDIA) P. LTD. N.H. ROAD, CHUNGAM, FEROKE, CALICUT - 673 631., BY V. SHAREEF, MG. DIRECTOR. BY ADV SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -73-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 541 OF 2020 AGAINST THE JUDGMENT WP(C) 11586/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASSISTANT COMMISSIONER, DEPARTMENT OF SGST, SPECIAL CIRCLE,THRISSUR - 680 004. 2 THE COMMISSIONER OF COMMERCIAL TAXES, TAX TOWERS, KILLIPALAM, KARAMANA, THIRUVANANTHAPURAM - 695 002. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: N.AYYAPPAN NAIR, AGED 76 YEARS, S/O.GOPALAN NAIR, NJARAKKAL HOUSE, GURUVAYOOR, THRISSUR DISTRICT - 680 101. BY ADVS. SRI.HARISANKAR V. MENON SMT.MEERA V.MENON SMT.K.KRISHNA THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -74-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 568 OF 2020 AGAINST THE JUDGMENT WP(C) 13887/2019 OF HIGH COURT OF KERALA APPELLANT/S:

1 THE STATE TAX OFFICER, KERALA STATE GOODS AND SERVICE TAX DEPARTMENT, III CIRCLE, STATE TAX COMPLEX, POOTHOLE, THRISSUR 680 004. 2 THE DEPUTY COMMISSIONER, KERALA STATE GOODS AND SERVICE TAX DEPARTMENT, III CIRCLE, STATE TAX COMPLEX, POOTHOLE, THRISSUR 680 004. 3 THE ASST. COMMISSIOENR OF STATE TAX, KERALA STATE GOODS AND SERVICE TAX DEPARTMENT, III CIRCLE, STATE TAX COMPLEX, POOTHOLE, THRISSUR 680 004. 4 STATE OF KERALA, REPRESENTED BY ITS FINANCE SECRETARY, SECRETARIAT,

THIRUVANANTHAPURAM 695 001. BY SPL GOVERNMENT
PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: -75- MALABAR LATEX (P) LTD THENGALLOOR P.O,
THRISSUR 680 596 REPRESENTED BY ITS MANAGING DIRECTOR
A.V ABDUL GAFOOR. BY ADV S.K.DEVI THIS WRIT APPEAL HAVING
COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH
WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING: -76-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE
HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND
DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 539 OF 2020
AGAINST THE JUDGMENT WP(C) 19777/2019 OF HIGH COURT OF
KERALA APPELLANT/S: 1 STATE OF KERALA, REP. BY ITS
SECRETARY (TAXES), GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM -695 001. 2 ASSISTANT COMMISSIONER
(ASSESSMENT), SGST DEPARTMENT, SPECIAL CIRCLE -III,
ERNAKULAM - 682 015. BY SPL GOVERNMENT PLEADER (TAXES)
MR MOHAMMED RAFIQ RESPONDENT/S: HINDALCO INDUSTRIES
LIMITED, ALUPURAM P.O., KALAMASSERY - 682 104, REP. BY ITS
AUTHORIZED SIGNATORY, MR.S.ANANTHA VISWANATHAN. BY
ADV SRI.A.KUMAR(B/O) THIS WRIT APPEAL HAVING COME UP FOR
ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING: -77-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE
HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND
DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 571 OF 2020

AGAINST THE JUDGMENTWP(C) 11932/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASSISTANT COMMISSIONER, STATE GOODS AND SERVICE TAX DEPARTMENT, SPECIAL CIRCLE, TAX TOWERS, KARAMANA, THIRUVANANTHAPURAM, PIN - 695 002. 2 THE STATE OF KERALA, REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: MOHANDAS MOTORS (P) LTD, VAZHAYILA, PEROORKADA, THIRUVANANTHAPURAM - 695 005., REP. BY ITS DIRECTOR KRISHNA MOHAN. BY ADVS., RAHUL A.; M.RAJAGOPAL(K/000429/2017) S.ANIL KUMAR (TRIVANDRUM)(K/11/2006) THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -78-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 542 OF 2020 AGAINST THE JUDGMENT WP(C) 24395/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASSISTANT COMMISSIONER, SPECIAL CIRCLE-III, STATE GOODS AND SERVICE TAX DEPARTMENT, THEVARA, ERNAKULAM, KOCHI - 682015. 2 STATE OF KERALA, REP. BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: JAQUAR AND COMPANY (P) LTD., NO.35/563, OPP.INTERNATIONAL STADIUM, PALARIVATTOM, KOCHI - 682025 (REP. BY SRI.SATHYAPAL K.R., AUTHORIZED SIGNATORY). THIS WRIT APPEAL HAVING COME UP FOR

ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -79-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 629 OF 2020 AGAINST THE JUDGMENTWP(C) 20151/2019 OF HIGH COURT OF KERALA APPELLANT/S:

1 ASSISTANT COMMISSIONER, SPECIAL CIRCLE-1, SGST DEPARTMENT, KOZHIKODE - 673 006. 2 THE STATE OF KERALA, REP. BY ITS CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM - 695 001. 3 SECRETARY, TAXES DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM -695 001. 4 THE STATE TAX OFFICER, OFFICE OF THE DEPUTY COMMISSIONER, COMMERCIAL TAXES DEPARTMENT, KOZHIKODE. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: XAVIER T.D., AGED 52 YEARS, S/O.DEVASIA, PROPRIETOR, XAVIER TRADERS, BIG BAZAR, KOZHIKODE, CALICUT - 673001. BY ADV K M FIROZ THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -80-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 611 OF 2020 AGAINST THE JUDGMENTWP(C) 11391/2019 OF HIGH COURT OF

KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER, SPECIAL CIRCLE-II, S.G.S.T. DEPARTMENT, PERUMANOOR P.O., ERNAKULAM-682015. 2 THE COMMISSIONER OF STATE TAXES, TAX TOWER, KILLIPPALAM, KARAMANA P.O., THIRUVANANTHAPURAM-695002. 3 THE STATE OF KERALA, REP. BY IT'S SECRETARY TO TAXES, SECRETARIAT, THIRUVANANTHAPURAM-695002. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: AJA ASSOCIATES, T.D.SANNIDHI ROAD, PALARIVATTOM-682025, REP. BY ITS MANAGING PARTNER ANIL K. JOSEPH. BY ADV SRI.AJI V.DEV (B/O) THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -81-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 569 OF 2020 AGAINST THE JUDGMENTWP(C) 11466/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 STATE TAX OFFICER, OFFICE OF THE ASST. COMMISSIONER(ASSESSMENT) STATE GOODS AND SERVICES TAX DEPARTMENT, SPECIAL CIRCLE-1, ERNAKULAM KOCHI PIN 682 015. 2 THE STATE OF KERALA, REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: BRIDGESTONE INDIA (P) LTD., ESEN BUILDING, PUTHIYA ROAD, IRIMPANAM, TRIPUNITHURA ERNAKULAM DISTRICT 682 309 REPRESENTED BY ITS AUTHORIZED SIGNATORY N.V PADMANABHAN BY ADVS. SRI.S.ANIL KUMAR (TRIVANDRUM) SRI.RAHUL A RAHUL A.; S.ANIL

KUMAR (TRIVANDRUM)(K/11/2006) M.RAJAGOPAL(K/000429/2017)
THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -82-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE
HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND
DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 567 OF 2020
AGAINST THE JUDGMENTWP(C) 17060/2019 OF HIGH COURT OF
KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER, KVAT
SPECIAL CIRCLE-II, STATE GOODS AND SERVICES TAX
DEPARTMENT, COMMERCIAL TAX COMPLEX, ERNAKULAM
COCHIN PIN 682 015 2 STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT, TAXES DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM PIN 695
002 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED
RAFIQ RESPONDENT/S: COIMBATORE ELECTRIC ENGINEERING
CORPORATION COCHIN 682 016, REPRESENTED BY ITS
MANAGING PARTNER U.K MENON BY ADV R MURALEDHARAN
THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -83-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE
HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND
DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 669 OF 2020
AGAINST THE JUDGMENTWP(C) 10320/2019 OF HIGH COURT OF
KERALA APPELLANT/S: 1 THE COMMERCIAL TAX OFFICER, II
CIRCLE, COMMERCIAL TAXES DEPARTMENT, PALAKKAD - 678 001.
2 THE COMMISSIONER OF COMMERCIAL TAXES TAX TOWERS,

KILLIPPALAM, KARAMANA, THIRUVANANTHAPURAM - 695 002. 3 INSPECTING ASST. COMMISSIONER DEPARTMENT OF COMMERCIAL TAXES, PALAKKAD - 678 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: BRIGHT MARKETERS, LOTUS, COIMBATORE ROAD, KUNNATHURMEDU, PALAKKAD, REP. BY ITS PARTNER UNNIKRISHNAN C.R. BY ADV HARISHANKAR V MENON THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -84-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 628 OF 2020 AGAINST THE JUDGMENTWP(C) 13444/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASSISTANT COMMISSIONER-1 (ASSESSMENT) SPECIAL CIRCLE, TAX TOWERS, KARAMANA, THIRUVANANTHAPURAM,PIN-695002. 2 THE STATE OF KERALA, REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: SREE AYYAPPAN AGENCIES, TC3/2454(4), TDK ROAD,EAST PATTOM, THIRUVANANTHAPURAM-695004, REPRESENTED BY ITS PROPRIETOR, RAJESH. BY ADVS. RAHUL A.; M.RAJAGOPAL(K/000429/2017) S.ANIL KUMAR (TRIVANDRUM)(K/11/2006) THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -85-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 580 OF 2020 AGAINST THE JUDGMENTWP(C) 10722/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASISTANT COMMISSIONER OF STATE TAX, SGST DEPARTMENT,SPECIAL CIRCLE, MALAPPURAM-676505. 2 GOVERNMENT OF KERALA, REP.BY CHIEF SECRETARY, THIRUVANANTHAPURAM-695001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: HILLWOOD TIMBERS, MAKKARAPARAMBA,MALAPPURAM-676507, REP.BY V.SHAREEF,MANAGING PARTNER. BY ADVS. SRI.P.RAGHUNATH; SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -86-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 587 OF 2020 AGAINST THE JUDGMENT WP(C) 11046/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASSISTANT COMMISSIONER, WORKS CONTRACT, OFFICE OF THE DEPUTY COMMISSIONER, STATE GOODS AND SERVICES TAX DEPARTMENT, THEVARA, ERNAKULAM, KOCHI-682 015. 2 STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: SILPA PROJECTS AND INFRASTRUCTURE INDIA (P) LTD NORTH AVENUE, DOOR NO.41/2795, E, E1, III FLOOR, PARAMARA ROAD, ERNAKULAM NORTH, KOCHI-682 018 (REPRESENTED BY

SRI.T.S.SANIL, MANAGING DIRECTOR). BY ADV SRI.K.N SREEKUMARAN(B/O) THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -87-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 551 OF 2020 AGAINST THE JUDGMENT WP(C) 23309/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER, STATE GOODS AND SERVICE TAX DEPARTMENT, OTTAPALAM, PALAKKAD 679 104. THIRUVANANTHAPURAM 2 STATE OF KERALA, REP. BY THE SECRETARY TO GOVERNMENT TAXES DEPARTMENT, GOVERNMENT SECRETARIAL, THIRUVANANTHAPURAM 695 002. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: SASIKUMAR M, AGED 54 YEARS, PROPRIETOR, GEETHANJALI AUTOMOBILES, CHERPULASSERY, PALAKKAD. THIRUVANANTHAPURAM BY ADVS. SRI.N.MURALEEDHARAN NAIR; SMT.K.HYMAVATHY THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -88-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 652 OF 2020 AGAINST THE JUDGMENT WP(C) 10546/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER

(ASSMT.) COMMERCIAL TAXES, SPECIAL CIRCLE-I, ERNAKULAM-682015. 2 THE DEPUTY COMMISSIONER, KERALA STATE GOODS AND SERVICE TAX DEPARTMENT, ERNAKULAM-682015. 3 STATE OF KERALA, REP. BY ITS FINANCE SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM-695001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: M/S. J.D.DIAGNOSTIC (P) LTD. REP. BY ITS JT.MANAGING DIRECTOR, JACOB GEORGE K. BY ADV S K DEVI THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -89-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 606 OF 2020 AGAINST THE JUDGMENTWP(C) 12260/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASSISTANT COMMISSIONER OF STATE TAX STATE GOODS AND SERVICES TAX DEPARTMENT, WORKS CONTRACT, TAX TOWERS, THIRUVANANTHAPURAM,PIN-695 002. 2 THE STATE OF KERALA, REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: GVR CONSTRUCTIONS, TC 16/918(20), PANCHAMY GARDEN, JAGATHY, THIRUVANANTHAPURAM-695014, REPRESENTED BY ITS AUTHORISED SIGNATORY PADMANABHAN. BY ADVS. RAHUL A.; S.ANIL KUMAR (TRIVANDRUM)(K/11/2006) M.RAJAGOPAL(K/000429/2017) THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -90-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 617 OF 2020 AGAINST THE JUDGMENT WP(C) 2940/2020 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER, STATE GOODS AND SERVICE TAXES DEPARTMENT, IDUKKI AT KATTAPPANA-685 515. 2 THE COMMISSIONER OF STATE TAXES, TAX TOWER, KILLIPPALAM, KARAMANA P.O.THIRUVANANTHAPURAM-695 002. 3 THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO TAXES, SECRETARIAT, THIRUVANANTHAPURAM-695 002. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: 1 V.J.RAJU AND CO., WORKS CONTRACTOR, VALUPARAMBIL BUILDING, PAZHAYARIKANDAM.P.O., IDUKKI, PIN-685606, REPRESENTED BY ITS MANAGING PARTNER SALESH RAJU. 2 V.J. RAJU, WORKS CONTRACTOR, VALUPARAMBIL HOUSE, PAZHAYARIKANDAM.P.O., IDUKKI, PIN-685606. 3 A.M. PAREETH RAWTHER, WORKS CONTRACTOR, ARYAPPILLIL HOUSE, PERUMBALLOOR.P.O., EAST MARADY, MUVATTUPUZHA, ERNAKULAM, PIN-686673. -91-

4 ANANDAKUMAR, WORKS CONTRACTOR, THUNDATHIL HOUSE, IDUKKI COLONY.P.O., CHERUTHONI, IDUKKI, PIN-685602. 5 SILBET XAVIER, WORKS CONTRACTOR, KAINICKAL HOUSE, MUKKADAM.P.O., ADIMALI, IDUKKI, PIN-685562. 6 K.P ABDUL KARIM , WORKS CONTRACTOR, KONNENKUDY HOUSE, IDUKKI COLONY.P.O., CHERUTHONY, IDUKKI, PIN-685602. 7 JAIN AUGUSTINE, WORKS CONTRACTOR, KIZHAKKEDATHU HOUSE, THADIYAMPADU.P.O., VAZHATHOPE, IDUKKI, PIN-685602. 8 MANOJ SCARIA, WORKS CONTRACTOR, AYICKAL HOUSE, THADIYAMPADU.P.O., IDUKKI, PIN-685602. 9 T.V.RAJENDRAN,

WORKS CONTRACTOR, THADASSERIL HOUSE, KUZHITHOLU, VANDANMEDU, IDUKKI, PIN-685551. 10 ALOSHIOUS AUGUSTINE, WORKS CONTRACTOR, KIZHAKKEDATHU HOUSE, KARIMANNOOR.P.O., THODUPUZHA, IDUKKI, PIN-685581. 11 JOSH Y JOSEPH, WORKS CONTRACTOR, KURIANPLACKAL HOUSE, PALA KADA, KANCHIYAR, IDUKKI, PIN-685511. 12 A.B. SURENDRAN, WORKS CONTRACTOR, EDAPARAMBATH HOUSE, KONNATHADY.P.O., IDUKKI, PIN-685563. 13 C.A.GEORGE, WORKS CONTRACTOR, CHOO LACKAL HOUSE, CHINNAKKANAL.P.O., IDUKKI, MUNNAR, PIN-685618. BY ADV AJI V DEV THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022,

ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -92-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 607 OF 2020 AGAINST THE JUDGMENT WP(C) 10337/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 STATE TAX OFFICER, WORKS CONTRACT, STATE GOODS AND SERVICES TAX DEPARTMENT, TAX COMPLEX, THEVARA, ERNAKULAM, KOCHI-682015. 2 INSPECTING ASSISTANT COMMISSIONER, STATE GOODS AND SERVICES TAX DEPARTMENT, ERNAKULAM AT KAKKANAD, KOCHI-682030. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: CRESCENT CONSTRUCTIONS MOOLEPADAM ROAD, KAKKANAD WEST P.O., KOCHI-682030. (REP. BY SRI. P.P.KUNJU MUHAMMED MANAGING PARTNER) BY ADV SREEKUMARAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -93-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 615 OF 2020 AGAINST THE JUDGMENTWP(C) 8356/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER OF STATE TAX SPECIAL CIRCLE, STATE GST DEPARTMENT, KANNUR-670 002. THIRUVANANTHAPURAM 2 GOVERNMENT OF KERALA, REPRESENTED BY CHIEF SECRETARY, THIRUVANANTHAPURAM-695 001. 3 THE COMMISSIONER OF STATE TAX STATE GST DEPARTMENT, THIRUVANANTHAPURAM-695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: SIGNATURE AUTOMOBILES INDIA (P) LTD KANNOTHUMACHAL, KANNUR-670 001 BY SHAAD NAZIRUDDIN, DIRECTOR. THIRUVANANTHAPURAM BY ADVS. SRI.P.RAGHUNATH; SRI.PREMJIT NAGENDRAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -94-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 596 OF 2020 AGAINST THE JUDGMENT WP(C) 21543/2019 OF HIGH COURT OF KERALA APPELLANT/S:

1 STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001. THIRUVANANTHAPURAM 2 THE COMMISSIONER OF STATE TAX, STATE GST DEPARTMENT, TAX TOWER, KILLIPPALAM, KARAMANA P.O., THIRUVANANTHAPURAM-695002. 3 ASSISTANT

COMMISSIONER OF STATE TAX, SPECIAL CIRCLE, STATE GOODS AND SERVICE TAX DEPARTMENT, SALES TAX COMPLEX BUILDING, JAWAHAR NAGAR COLONY, ERANHIPALAM P.O., KOZHIKODE-673006. 4 STATE TAX OFFICER, 2ND CIRCLE, OFFICE OF THE STATE TAX OFFICER, SGST DEPARTMENT, SALES TAX COMPLEX BUILDING, JAWAHAR NAGAR COLONY, ERANHIPALAM P.O., KOZHIKODE-673006. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: -95- M/S. TRIVENI SCHOOL BAZAR, PM TAJ ROAD, SM STREET, KOZHIKODE-673001, REPRESENTED BY ITS MANAGING PARTNER. THIRUVANANTHAPURAM THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -96-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 643 OF 2020 AGAINST THE JUDGMENTWP(C) 11433/2019 OF HIGH COURT OF KERALA APPELLANT/S:

1 STATE TAX OFFICER (WORKS CONTRACT) OFFICE OF THE DEPUTY COMMISSIONER OF SALE TAX WORKS CONTRACT, DEPARTMENT OF STATE GOODS AND SERVICE TAX, PERUMANOOR, KOCHI-682015. 2 THE COMMISSIONER, STATE GOODS AND SERVICE TAX DEPARTMENT, THIRUVANANTHAPURAM-695001. 3 STATE OF KERALA, REP. BY ITS SECRETARY, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: JAIN HOUSING AND CONSTRUCTIONS LTD., 39/5176, PLOT NO.361, PANAMPILLY NAGAR, COCHIN-682036, REP. BY ITS AUTHORIZED SIGNATORY. BY ADV SRI.RAJESH NAMBIAR THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -97-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 662 OF 2020 AGAINST THE JUDGMENTWP(C) 20208/2019 OF HIGH COURT OF KERALA APPELLANT/S:

1 STATE TAX OFFICER (WORKS CONTRACT), SGST DEPARTMENT, TAX TOWER, KARAMANA.P.O., THIRUVANANTHAPURAM-695002. 2 THE STATE OF KERALA, REP. BY THE SECRETARY, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001. 3 THE COMMISSIONER OF STATE TAX, SGST DEPARTMENT, GOVERNMENT OF KERALA, TAX TOWER, KARAMANA.P.O., THIRUVANANTHAPURAM-695002. 4 DEPUTY TAHSILDAR (RR), TALUK OFFICE, FORT.P.O., THIRUVANANTHAPURAM-695023. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: ASOK AYYAPPAN, AGED 44 YEARS, PROPRIETOR, M/S.B.S.ENGINEERING, BALASUBRAMANIAN LANE, PATTOM, THIRUVANANTHAPURAM-695004. THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -98-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 742 OF 2020 AGAINST THE JUDGMENT WP(C) 15957/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 STATE TAX OFFICER, WORKS CONTRACT, STATE GOODS AND SERVICES TAX DEPARTMENT, ALAPPUZHA, PIN - 688001. 2 STATE OF KERALA, REP. BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001. 3 ASSISTANT COMMISSIONER (REVENUE RECOVERY) STATE GOODS AND SERVICES TAX DEPARTMENT, CHENGANNUR, PIN - 689 121. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: T.BASHEER, AGED 63 YEARS CONTRACTOR, ARAYATTU PADETHATHIL HOUSE, MAVELIKKARA, ALAPPUZHA, PIN - 690 101. BY ADV K N SREEKUMARAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -99-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 621 OF 2020 AGAINST THE JUDGMENT WP(C) 4426/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER-1, SPECIAL CIRCLE-1, STATE GST DEPARTMENT, KOZHIKODE-673006 2 GOVERNMENT OF KERALA, REP. BY CHIEF SECRETARY, THIRUVANANTHAPURAM-695001 3 THE COMMISSIONER OF COMMERCIAL TAXES STATE GST DEPARTMENT, THIRUVANANTHAPURAM-695001 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: P.SAHADEVAN SONS, BAKERY AND BUTLERS SHOP, THONDAYAD, BYPASS,

NELLIKODE.P.O, CALICUT-673016, REP. BY PROPRIETOR- SUJITH KUMAR PENOTHILA BY ADV SRI.P.RAGHUNATH THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -100-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 703 OF 2020 AGAINST THE JUDGMENTWP(C) 15037/2019 OF HIGH COURT OF KERALA APPELLANT/S:

1 STATE TAX OFFICER, 4TH CIRCLE, STATE GOODS AND SERVICE TAX DEPARTMENT, CLASS TOWERS, OLD RAILWAY STATION ROAD, ERNAKULAM,KOCHI-682 018 2 STATE OF KERALA, REP BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,PIN-695 001 3 THE INSPECTING ASSISTANT COMMISSIONER, STATE GOODS AND SERVICE TAX DEPARTMENT,KAKKANAD, KOCHI-682 030 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: SUGUNA MACHINE WORKS (P) LTD., KOCHI-682 016,(REP BY SRI.SKANTHARAJAN.P.N., PARTNER) THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -101-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 722 OF 2020

AGAINST THE JUDGMENT WP(C) 15633/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE ASSISTANT COMMISSIONER (ASSESSMENT) SPECIAL CIRCLE-II, SGST DEPARTMENT, CIVIL STATION AT KAKKANAD,ERNAKULAM-682 015 2 THE STATE ASSISTANT COMMISSIONER/ INSPECTING ASSISTANT COMMISSIONER, SGST DEPARTMENT, CIVIL STATION AT KAKKANAD,ERNAKULAM-682 030 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: INDUS MOTOR COMPANY (P)LIMITED M.G ROAD, THEVARA, ERNAKULAM-682 015, REP BY ITS GENERAL MANAGER (FINANCE AND AUDIT) MR. ANAS.K.P. BY ADV SMT.K.LATHA THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -102-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 785 OF 2020 AGAINST THE JUDGMENTWP(C) 10208/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASSISTANT COMMISSIONER (WC) AND ORS. O/O. THE DEPUTY COMMISSIONER, STATE GOODS AND SERVICES TAX DEPARTMENT, THEVARA, ERNAKULAM, KOCHI - 682 015. 2 STATE OF KERALA, REP. BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: SUNIL KUMAR S., AGED 53 YEARS PROPRIETOR, YESKAY CONSTRUCTIONS, SREE MURUGA BUILDING, KALOOR, KADAVANTHRA ROAD, KALOOR, KOCHI - 682 017. BY ADV SRI.K.N SREEKUMARAN(B/O) THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND

CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -103-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 892 OF 2020 AGAINST THE JUDGMENTWP(C) 16896/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 ASSISTANT COMMISSIONER, SPECIAL CIRCLE, STATE GOODS AND SERVICES TAX DEPARTMENT , PERUMBAVOOR 683 542. 2 STATE OF KERALA, REP. BY SECRETARY TO GOVERNMENT TAXES DEPARTMENT , GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, 695 001. 3 ASSISTANT COMMISSIONER, RECOVERY, STATE GOODS AND SERVICES TAX DEPARTMENT, MUVATTUPUZHA 686 661. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: KURUVITHADAM AGENCIES (P) LTD. KACHERITHAZHAM, MUVATTUPUZHA 686 661, HEAD OFFICE AT M.G. ROAD, ERNAKULAM, KOCHI 682 015. (REP. BY SRI CHARLER MATHEW, DIRECTOR). BY ADV SRI. K.N SREEKUMARAN(B/O) THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -104-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 912 OF 2020 AGAINST THE JUDGMENTWP(C) 16018/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 STATE TAX OFFICER, WORKS CONTRACT, STATE GOODS AND SERVICE TAX DEPARTMENT, THIRUVANANTHAPURAM-695 001 2 STATE OF KERALA, REP BY

SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,PIN-695 001 3 ASSISTANT COMMISSIONER OF STATE TAX, STATE GOODS AND SERVICES TAX DEPARTMENT, THIRUVANANTHAPURAM-695 001 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: RAJKUMAR.P, HOUSE NO.37,TC 3/889, LMS NAGAR, MUTTADA P.O., THIRUVANANTHAPURAM DISTRICT,PIN-695 025 BY ADV K N SREEKUMARAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -105-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 877 OF 2020 AGAINST THE JUDGMENTWP(C) 18768/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER, STATE GST DEPARTMENT,SECOND CIRCLE, KOTTAYAM-686001. 2 THE COMMISSIONER OF STATE TAXES, TAX TOWER,KILLIPPALAM,KARAMANA.P.O, THIRUVANANTHAPURAM-695002. 3 THE STATE OF KERALA, REP.BY ITS SECRETARY TO TAXES,SECRETARIAT, THIRUVANANTHAPURAM-695002. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: PALA MARKETING CO-OPERATIVE SOCIETY, CHETT9IMATTOM,PALA-686575, REP.BY ITS SECRETARY SMT.ROSELY THOMAS,CONTACT-9447091300. BY ADV AJI V.DEV THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -106-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 986 OF 2020 AGAINST THE JUDGMENTWP(C) 23313/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER, STATE GOODS AND SERVICE TAX DEPARTMENT, OTTAPALAM, PALAKKAD - 679 104. 2 STATE OF KERALA, REP. BY THE SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 002. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: SASIKUMAR M., AGED 54 YEARS, PROPRIETOR, GEETHANJALI AUTOMOBILES CHERPULASSERY, PALAKKAD - 679 503. BY ADVS. SRI.N.MURALEEDHARAN NAIR SMT.K.HYMAVATHY THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -107-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 1019 OF 2020 AGAINST THE JUDGMENT WP(C) 13149/2019 OF HIGH COURT OF KERALA APPELLANT/S: 1 STATE OF KERALA, REP. BY ITS SECRETARY (TAXES), GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN- 695001. 2 THE STATE TAX OFFICER (WORKS CONTRACT), O/o.THE DEPUTY COMMISSIONER, STATE GOODS AND SERVICE TAX DEPARTMENT, STATE GOODS AND SERVICE TAX COMPLEX, PERUMANOOR, KOCHI-682015. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: CHAKOLAS KUNNEL DEVELOPERS, 26/2075 F, PANDIT KARUPPAN ROAD, THEVARA, ERNAKULAM-682013, REP.

BY ITS MANAGING PARTNER, MR.MATHEW L.CHAKOLAS. BY ADV A KUMAR THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: - 108-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 1056 OF 2021 AGAINST THE JUDGMENTWP(C) 3591/2020 OF HIGH COURT OF KERALA APPELLANT/S:

1 COMMERCIAL TAX OFFICER (WORKS CONTRACT) DEPARTMENT OF COMMERCIAL TAXES, CLASS TOWER, 2ND FLOOR, OLD RAILWAY STATION ROAD, ERNAKULAM, KOCHI - 682018. 2 THE DEPUTY COMMISSIONER, STATE GOODS AND SERVICES TAX DEPARTMENT, PERUMANOOR, KOCHI - 682015. 3 THE ASSISTANT COMMISSIONER OF STATE TAX. STATE GOODS AND SERVICES TAX DEPARTMENT, CIVIL STATION, KAKKANAD, KOCHI - 682030. 4 THE SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ

RESPONDENT/S: SUNIL VARKEY, AJAY CONSTRUCTIONS, SREENIKETAN BUILDINGS, 1ST FLOOR, STATUE JUNCTION, TRIPUNITHURA, PIN - 682301. BY ADV M.K.SUBHAKARAN THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -109-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 1562 OF 2019 AGAINST THE JUDGMENTWP(C) 4067/2019 OF HIGH COURT OF KERALA APPELLANT/S: EASY INFRA INC., TC.39/1489(6),RAJ TOWERS, KALYANI HOSPITAL ROAD, MANACAUD P.O., THIRUVANANTHAPURAM,PIN-695 009, REPRESENTED BY ITS AUTHORISED SIGNATORY, BALACHANDRAN K.B., BY ADVS. S.ANIL KUMAR (TRIVANDRUM); M.RAJAGOPAL RESPONDENT/S: 1 THE ASST. COMMISSIONER OF STATE TAX, SPECIAL CIRLCE, STATE GOODS AND SERVICES TAX DEPARTMENT, TAX TOWERS, KARAMANA, THIRUVANANTHAPURAM,PIN-695 002 2 THE DEPUTY COMMISSIONER OF STATE TAX, STATE GOODS AND SERVICES TAX DEPARTMENT, TAX TOWERS, KARAMANA, THIRUVANANTHAPURAM, PIN-695 002 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -110-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 1528 OF 2020 AGAINST THE JUDGMENTWP(C) 13792/2020 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER (WC) OFFICE OF THE DEPUTY COMMISSIONER, DEPARTMENT OF SGST, ERNAKULAM-682 015 2 STATE OF KERALA, REP. BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 001 BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: T.O.ITTOOP AND ASSOCIATES DOOR NO.A2/373,

CHITOOR ROAD, KOCHI-682 012, REP.BY ITS MANAGING PARTNER, T.I.GEORGE BY ADV HARISHANKAR V MENON THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -111-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 1558 OF 2020 AGAINST THE JUDGMENTWP(C) 13891/2020 OF HIGH COURT OF KERALA APPELLANT/S: 1 THE STATE TAX OFFICER (WC), OFFICE OF THE DEPUTY COMMISSIONER, DEPARTMENT OF SGST, MATTANCHERRY-682002. 2 STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: JOSEPH NELSON, ARACKAL HOUSE, BUILDING NO.CC-10/18-15, PALLICHAL ROAD, KOCHI-682005. BY ADVS. SRI.HARISANKAR V. MENON; SMT.MEERA V.MENON THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -112-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944 WA NO. 3 OF 2021 AGAINST THE JUDGMENT WP(C) 14576/2020 OF HIGH COURT OF KERALA APPELLANT/S: 1 STATE TAX OFFICER, WORKS CONTRACT, STATE GOODS AND SERVICES TAX DEPARTMENT, THIRUVANANTHAPURAM-695 002. 2 THE COMMISSIONER, STATE GOODS AND SERVICES TAX DEPARTMENT, KARAMANA,

THIRUVANANTHAPURAM-695 002. 3 STATE OF KERALA, REPRESENTED BY SECRETARY (TAXES), SECRETARIAT, THIRUVANANTHAPURAM-695 001. BY SPL GOVERNMENT PLEADER (TAXES) MR MOHAMMED RAFIQ RESPONDENT/S: VIJAYA FOUNDATION, B9 TC 13/462-1, PILLAI VEEDU NAGAR, KESAVADASAPURAM, THIRUVANANTHAPURAM, PIN-695 004, REPRESENTED BY ITS MANAGING DIRECTOR, SHRI.RAMNIWAS SINGH. BY ADV HARISHANKAR V MENON THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22.08.2022, ALONG WITH WA.48/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -113-

JUDGMENT

WA Nos. 48/2020, 1562/2019, 2/2020, 314/2020, 323/2020, 324/2020, 328/2020,

S.V.Bhatti, J.

We have heard the learned Special Government Pleader (Taxes) Mr Mohammed Rafiq for the appellants and learned Advocates Mr A Kumar, Mr Alan Dev for Mr Aji V. Dev, Mr K P -114- Abdul Azeez, Mr K N Sreekumaran, Mr Premjith Nagendran, Mr Harishankar V. Menon, Ms S K Devi, Mr S Anil Kumar, Mr Bobby John, Mr N Muraleedharan Nair, Mr Mayankutty Mather, Mr P S Soman for the respondents.

2. The respondents in W.P.(C) No.9963/2019 and batch are the appellants. The writ appeals are from the common

judgment dated 06.12.2019 in W.P.(C) No.9963/2019 and batch.

The writ petitioners/respondents herein challenged the assessment notices issued under Section 25(1) of the Kerala Value Added Tax Act (for short, KVAT Act) given for the assessment years 2010-11 and 2011-12 as without jurisdiction and competence of the Assessing Officers. The said challenge examined the competence of the Assessing Officer under amended Section 25(1) of the KVAT

Act through Kerala State -115- Finance Act Nos.11/2017 and 5/2018. The parties are referred to as arrayed in the writ appeal.

3. The writ petitioners/respondents herein moved this

Court to declare that the amendment to Section 25(1) of the KVAT Act, through Finance Act 11/2017, substituting the limitation period for initiating assessment under Section 25(1) from five years to six years does not apply to the Assessment Year 2010-11 because the amendment does not, by letter and application, have a retrospective operation. Secondly, the Proviso cannot be understood as expanding the meaning of the substantive portion of amended Section 25(1) of the KVAT Act. Thirdly, the amendment to Section 25(1) of the KVAT Act through Finance Act 5/2018 is without legislative competence. Hence, the notices issued under Section 25(1) of the KVAT Act -116-

are illegal and without authority. The common judgment

disposes of the writ petitions. The operative portion reads thus: (i) the assessments in respect of which the period of limitation for re-opening under Section 25 of the KVAT Act was to expire by 31.03.2017 can be re-opened up to 31.03.2018 by virtue of the amendment to the third proviso to Section 25 (1) vide Kerala Finance Act, 2017.

(ii) the assessments in respect of which the period of

limitation for re-opening under Section 25 of the KVAT Act was to expire by 31.03.2018 cannot be re-opened up to 31.03.2019 or thereafter, by relying on the amendments introduced through the Kerala Finance Act, 2018 since the State Legislature did not have the power to amend the KVAT Act after the CAA 2016, and the repeal of the KVAT Act pursuant thereto, on 22.06.2017.

(iii) The legality of the orders/notices impugned in these writ petitions shall stand determined by the declarations in

(i) and (ii) above.

The judgment impugned accepted the prayer made on the -117- retrospective operation of Section 25(1) as amended by Finance Act 11/2017 and held that the amendment to Section 25(1) third proviso of KVAT Act through Finance Act 5/2018 is beyond the legislative competence of the State Legislature.

4. The State/respondents appeal against the declaration

excerpted supra and the view taken on substitution by amendment from five years to six years limitation in Section 25(1) of the KVAT Act, by Finance Act 11/2017 as prospective. Hence the Writ Appeals.

5. In a nutshell, let us advert to the circumstances

leading to the filing of writ petitions, viz. the jurisdictional Assessing Officers have served notices under Section 25(1) of the KVAT Act proposing to reopen the assessment for the Assessment Year 2010-11 and 2011-12. The notices impugned in -118- the writ petitions are after 01.04.2017 or 01.04.2018 as the case may be. The parties are not in issue on the relevant dates by referring to which the legal grounds, viz. the amendments to Section 25(1) of KVAT Act through Finance Act 11/2017 is prospective and Finance Act 5/2018 as unconstitutional, are canvassed. So, for our purpose, we deem it unnecessary to narrate the dates of reassessment notices referred to in the individual writ petitions.

6. Mr Mohammed Rafiq, appearing for the appellants,

argues that the reasoning in the judgment impugned on the alleged vested or accrued right in favour of respondents upon the completion on 31.03.2017 is erroneous, both in fact and law. Section 25 of the KVAT Act deals with the assessment of escaped turnover for one or the other situations adverted in Section -119- 25(1) of the KVAT Act. The time limit is five years as per the unamended provision, or six years as per the amended provision is one of convenience for the Department and the dealer. The underlying idea in the assessment of escaped turnover is to assess and realize the tax component from the dealer legitimately

due to the Government. Therefore, as understood, the expiry of limitation merely effaces the remedy but not the right of the Department. The argument that the claim is on an accrued or vested right is without basis. To bring home his statement on vested or accrued rights and further the legislative competence to amend the existing provision, he relies on reported judgment in *Income Tax Officer v. Calcutta Discount Co. Ltd*¹. AIR 1953 Cal. 721 -120- 6.1 The following excerpts are relied on by the learned counsel for the appellants.

The Indian Income-tax Act, 11 of 1922, has recognised from the beginning that, for various reasons, the income of an assessee during a particular year may escape assessment altogether or that an assessment made of it may not bring the whole of the assessable income under tax or may not charge the proper amount of tax on it and it has therefore contained in S.34 a provision for making assessments beyond the normal time or re-opening assessments. The section has been amended from time to time and immediately before the amending Act of 1948. *** ** 14 As already stated, amendments of the Income-tax Act were made by Ss.2 to 12 of Act 48 of 1948. That Act itself came into force on 8-9-1948 but, by S.1(2), it prescribed the dates on which certain of its provisions and certain amendments made to the Income-tax Act were to come into force. Section 1(2) is in the following terms: "Sections 3 to 12 shall be deemed to have come into force on 30-3-1948 and

-121- the amendment made in the Income-tax Act, 1922 (11 of 1922) by 5.2 shall be deemed to be operative so as to apply in relation to all assessments subsequent to the assessment for the year ending on 31-3-1948." *** **

18. In my opinion, the reasoning of the learned judge does

not dispose of the matter and if I may say so with respect, it does not seem to me to explore and examine fully the meaning of the new section being brought into force on 30- 3-1948. It is true that the section must be

taken to have come into force on that date and not on any earlier date. The date on which it came into operation cannot be pushed back further. But given that the section came into operation on 30-3-1948, in deciding in what manner it would operate, & is pertinent to enquire first what the section itself says. The learned judge has observed that "the amendment is expressly made retrospective so far as S.34 is concerned from 30-3-1948", but that really is not the retrospective operation of S.34, but of the amending Act which, though it became law only on 8-9-1948, operates, so far as it substituted a new section for the old S.34, with effect from

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30-3-1948/ The effect of S.8 of the amending Act so operating with respect to S.34 was that it placed the section on the statute-book as on 30-3-1948 and made it a part of the Income-tax Act on and from that date. But what was the effect of such introduction of the new S.34 on the Income-tax Act itself? The effect was that the Income-tax Act, speaking on and from 30-3-1948 with the new section as a part of it, began to say in the words of the section itself, and therefore expressly by its own words, that in cases coming under cl1(a) of the section, the Income-tax Officer would be entitled to issue a notice within eight years from the end of any assessment year in respect of which proceedings or further proceedings seemed to be called for. One has only to read the Act, standing so amended on 30-3-1948 and one finds at once a clear provision that all assessment years, ending within eight years from that date, are covered by it, as also all assessment years ending within eight years from subsequent dates. It is immaterial that some of them may be years ended before 30-3-1948. The question is not one of retrospective operation at all but a question of what the section says and how far the section, having come into force on 30-3-1948,

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extends by its own words. Had the section merely created a right in favour of the Income-tax Officer to issue a notice in respect of escaped or under-assessed income and not included a provision as to the period up to which computed from the end of the assessment year concerned, the right could be exercised, a question might conceivably arise as to whether it was intended to be retrospective in operation, but in view of its clear terms, the section gives rise to no such question. The plain effect of the substitution of the new S.34 with effect from 30-3-1948 is that from that date the Income-tax Act is to be read as including the new section as a part thereof and if it is to be so read, the further effect of the express language of the section is that so far as cases coming within cl. (a) of sub-S.(1) are concerned, all assessment years ending within eight years from 30-3-1948 and from subsequent dates, are within its purview and it will apply to them, provided the notice contemplated is given within such eight years. *** *** ***

23. In the view I have taken of S.34, no question of -124-

retrospective operation, as a question of interpretation, arises in the present case. The term 'retrospective operation', as has been observed, is ambiguous, because it is applied both to the fact that a particular enactment operates from before its date or so as to affect pre-existing rights and to the problem of construction which may be presented by an enactment as to whether it extends backwards or not. When an enactment extends backwards by its own clear language, it operates retrospectively, but presents no problem of construction. There can be no doubt that the Legislature is supreme and it can, if it chooses, legislate so as to alter rights with effect from a prior date. It is only when the intention of the Legislature does not lie on the surface that a question of interpretation arises and, in such a case, in deciding whether the enactment concerned is intended to operate retrospectively, certain well-known principles are followed. The present case does not belong to that type, because the effect of the manner in which 5.34 was incorporated in

the Income-tax Act and of the words in which the section is expressed, is clear. (emphasis supplied)

-125- 6.2 The liability to pay tax is incurred with the taxable event as per the charging section. The liability arising from the taxable event is independent of any consideration of time or period of limitation. The time limit for reassessment is for the convenience of the dealers. Therefore, the amendment to Section 25(1) made with effect from 01.04.2017 shall be read as enabling the officers to initiate proceedings within six years with the end of the Assessment Year. Hence, the time limit and the year and date on which the notice is issued, are relevant. He placed reliance on the reported judgments in S.C. Prashar v. Vasantsen Dwarkadas² and Ahmedabad Manufacturing and Calico Printing Co. Ltd v. S.G. Mehta³. AIR 1963 SC 1356 AIR 1963 SC 1436 -126- S.C. Prashar v. Vasantsen Dwarkadas

Per S.K Das, J.

I am of the opinion that in its true scope and effect, S. 31 of the Amending. Act of 1953 puts beyond any doubt that the view expressed by the learned Chief Justice in 1953-23 ITR 471: (AIR 1953 Cal 721) is the correct view and amended S. 34 applies to assessment years prior to 1948-49, but it does not say that an assessment which had become final and in respect of which re- assessment proceeding had become time-barred before the amended section came into force could be re-opened.

19. My conclusion, therefore, is that S. 31 of the Amending Act

of 1953 does not validate the notice issued in the present case-a notice issued on April 30, 1954 long before which date the assessment had become final and in respect of which re- assessment proceedings had become time-barred. The short answer to the argument based on S. 31 is that the notice in the present case was not issued in accordance with sub-section (1) of S. 34, and the first part of S. 31 requires that the notice

must be so issued before the second part thereof can give any protection to it. *** *** ***

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Per Hidayatullah, J.

93. The Amending Act of 1948 was passed on September 8,

1948, and came into force from March 30, 1948. In some cases it has been held that its retrospectivity cannot be carried further than March 30, 1948. That is true in one sense but not in the sense how its provisions were to work in relation to the assesseees. *** *** *** That liability to the State is independent of any consideration of time and, in the absence of any provision restricting action by a time limit, it can be enforced at any time. What the law does is to prevent harassment of assesseees to the end of time by prescribing a limit of time for its own officers to take action. This limit of time is binding upon the (officers, but the liability under the charging section can only be said to be unenforceable after the expiry of the period under the law as it stands. In other words, though the liability to pay tax remains it cannot be enforced by the officers administering the tax laws. If the disability is removed or according to a new law a new time limit is created retrospectively, there is no reason why the liability should not be treated as still enforceable. The

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law does not deal with concluded claims or their revival but with the enforcement of a liability to the State which though existing remained to be enforced. This aspect was admirably summed up by Chakravarti C. J. (Sarkar J. concurring) in (1953) 23 ITR 471 at p. 482: (AIR 1953 Cal 721 at p. 724), as follows, "The plain effect of the substitution of the new Section 34 with effect from the 30th March, 1948, is that from that date the Income-tax Act is to be read as including the new section as a part

thereof and if it is to be so read, the further effect of the express language of the section is that so far as cases coming within clause (a) of sub-section (1) are concerned, all assessment years ending within eight years from the 30th march, 1948, and from subsequent dates are within its purview and it will apply to them, provided the notice contemplated is given, within such eight years. What is not within the purview of the section is an assessment year which ended before eight years from the 30th March 1948."

94. We entirely agree with these observations and in our

opinion after the passing of the 1948 Amendment which came into force on March 30, 1948, the Income-tax officer could take action in all cases in which the assessment years ended within -129-

eight years of the date of his action and in which there was an escapement of an assessment for the reasons indicated in clause (a) of the section as amended. In other words. action could be taken retrospectively in the cases indicated by Chakravartti C.J. If there be any doubt about the powers of the Income-tax officer the validating section passed in 1953 (S. 31) quite clearly indicates that section 34 as amended in 1948 was to be read in this manner. Ahmedabad Manufacturing and Calico Printing Co. Ltd v. S.G. Mehta Under the well-settled rules of statutory construction no statute which impairs an existing right or obligation except as regards a matter of procedure, shall have a retrospective operation unless such a construction appears very clearly in the terms of the Act or arises by necessary and distinct implication. Put differently, a statute is not to be construed to have a greater retrospective operation than its language renders necessary and it is submitted that "the general rule is that all statutes other than those which are merely declaratory, or which relate only to matters of procedure or of evidence are prima facie prospective; and retrospective effect is not to be given to them unless by express words or necessary

implication, it appears that this was the Intention of the legislature" and "it is a corollary of this general presumption against retrospection that, even when a statute is intended to be to some extent retrospective, it is not to be construed as having a greater retrospective effect than its language renders necessary". (Halsbury's Laws of England, Vol. 36, Third Edn., p. 423 and p. 426). *** *** *** The principle is simply this. A statute which is not declaratory of a pre-existing law nor a matter relating to procedure but affects vested rights cannot be given a greater retrospective effect than its language renders necessary, and even in construing a section which is to a certain extent retrospective, the line is reached at which the words of the section cease to be plain. These are well settled principles, and there is no reason to doubt their accuracy,

6.3 He contends with considerable force that the view expressed by the Division Bench in *Commercial Tax Officer v. -131- Najeem*⁴, viz:

16. The power of the legislature to make an amendment, with retrospective effect, is undisputed but the requirement is that unless the same is expressed in clear language or implied, without any scope for doubt, then the amendment would only be prospective. We are of the opinion that when there is a substitution, unless the same is expressed to be prospective the Courts could always interpret it to be retrospective, looking at the scheme of the enactment, the purpose and object of the amendment, especially when the amendment by substitution, was intended at removing an obvious anomaly or correcting a blatant error or obliterating an absurdity or bringing it in consonance with any other law or the Constitution; as was the case in *Hassan Co-operative Union*. On the other hand an amendment other than by substitution would be retrospective only if it is so expressed or it follows from necessary intendment, as is implicit from the language employed. Otherwise there is no requirement for the legislature to express the retrospectivity; it could

very well make a substitution, which would operate from the

2018 (3) KLT 877 -132- inception of enactment. *** *** ***

32. Having gone through the gamut of decisions placed

before us, both by the State and the respondent-assessees, from which we have copiously referred to, we find the State's contention to be supported only by the judgment of the Full Bench of the Karnataka High Court, which we have dissented from. We have demonstrated from the various decisions of the Hon'ble Supreme Court placed before us by both the parties that there is no irrefutable rule that an amendment by substitution is invariably retrospective. We find the amendment by substitution in the present case, extending the period of limitation from 5 years to 6 years to be not applicable to those assessments which stood completed and the 5 year period for re-opening of assessment under S.25(1) stood expired. We do not see any reason to interfere with the impugned judgments on the basis of the amendment made subsequent to the judgment. Though the legislature had the competence to extend the period of limitation with retrospective effect, the same was not done. We cannot but observe that even if such an

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exercise was carried out, necessarily there should have been a validation clause so as to get over the judgment of the writ Court. Rai Ramakrishna, Meerut Development Authority, M/s. Arooran Sugars Limited, and Indian Aluminium Co. are cases in which the legislature despite the judgment of a constitutional court; brought in amendments removing the defect pointed out in the judgments, and also provided a validation clause by which the action taken under the defective provision stood validated under the retrospective amendment made. This exercise is totally absent in the amendment made to S.25 (1), substituting the period of limitation from five to six years.

is not in line with the well-established principles of interpretation of a provision on retrospective operation of vested right or accrued right, whether the limitation in the present scenario is procedural or substantive, and commends to the court to take an independent view de hors the view of this Court in Najeemss case. -134-6.4 He argues that the dictum in Najeems case is directly in conflict with the principle laid down in Additional Commissioner [Legal] v. Jyoti Traders⁵.

That is not so in the present case. Under sub-section (1) of Section 21 of the Act before its amendment, the assessing authority may, after issuing notice to the dealer and making such inquiry as it may consider necessary, assess or reassess the dealer according to law. Sub-section (2) provided that except as otherwise provided in this section, no order for any assessment year shall be made after the expiry of 4 years from the end of such year. However, after the d amendment, a proviso was added to sub-section (2) under which the Commissioner of Sales Tax authorises the assessing authority to make assessment or reassessment before the expiration of 8 years from the end of such year notwithstanding that such assessment or reassessment may involve a change of opinion. The proviso came into force w.e.f. 19-2-1991. We do not think that sub-section (2) and the proviso added to it leave anyone in e doubt that as on the

(1999) 2 SCC 77 -135-

date when the proviso came into force, the Commissioner of Sales Tax could authorise making of assessment or reassessment before the expiration of 8 years from the end of that particular assessment year. It is immaterial if a period for assessment or reassessment under sub-section (2) of Section 21 before the addition of the said proviso had expired. Here, it is the completion of assessment or reassessment under Section 21 which is to be done before the expiration of 8 years of that particular assessment year. Read as it is, these provisions would mean that the assessment for the year 1985-86 could be reopened up to 31- 3-1994.

Authorisation by the Commissioner of Sales Tax and completion of assessment or reassessment under sub-section

(1) of Section 21 have to be assessee follows the

authorisation by the Commissioner of Sales Tax, its service on the assessee is not a condition precedent to reopen the assessment. It is not disputed that a fiscal statute can have retrospective operation. If we accept the interpretation given by the respondents, the proviso added to sub section

(2) of Section 21 of the Act becomes redundant. Commencement of the Act can be different than the -136-

operation of the Act though sometimes, h both may be the same. The proviso now added to sub-section (2) of Section 21 of the Act does not put any embargo on the Commissioner of Sales Tax not to reopen the assessment if the period, as prescribed earlier, had expired before the proviso came into operation. One has to see the language of the provision. If it is clear, it has to be given its full effect. To reassure oneself, one may go into the intention of the legislature in enacting such provision. The date of commencement of the proviso to Section 21(2) of the Act does not control its retrospective operation. Earlier the assessment/reassessment "could have been completed within four years of that particular assessment year and now by the amendment adding the proviso to Section 21(2) of the Act it is eight years. The only safeguard being that it is after the satisfaction of the Commissioner of Sales Tax. The proviso is operative from 19- 2-1991 and a bare reading of the proviso shows that the operation of this proviso relates and encompasses back to the previous eight assessment years. We need not refer to the provisions of the Income Tax Act to interpret the proviso to Section 21(2) the language, is which is clear and

-137- unambiguous We are, thus, of the view that the High Court was not right in quashing the sanction given by the Commissioner of Sales Tax and notices issued

by the assessing authority in pursuance thereof. (emphasis supplied) 6.5 A Division Bench in Paul Varghese v. State of Kerala 6 relied on Jyothi Traders case, on the principle of commencement or retrospective operation held as follows on page 132:

11. As we already noted, the second proviso to Sec. 17(6) added by the amending Act is specifically intended to cover the assessment year 1994-95. When the legislature has specifically made a provision regarding the period of limitation for completion of the assessment for 1994-95, in the absence of a challenge to the said provision it has to be given its full effect. Even in a case where the statute was amended by inserting a proviso enlarging the period of limitation for completion of assessment/re assessment after the expiry of the period for completion of the assessment,

(2005) 13 KTR 29 (Ker.) -138-

the Supreme Court has held that the intention of the legislature should be given its full effect. The second proviso as already noted, clearly expresses the intention of the legislature in giving retrospective operation in respect of the assessment year 1994-95. Here it must be noted that even in the decision of Supreme Court in Gadgil's case relied on by the assessee it was observed that "the provision must be read subject to the rule that in the absence of an express provision or clear implication, the Legislature does not intend to attribute to the amending provision a greater retrospectivity than is expressly mentioned". Hence all the decisions of the Supreme Court are to the effect that it is the legislative intention that must be given full effect. Hence in view of the authoritative pronouncements of the Supreme Court discussed above, the contention of the petitioner that the assessment is barred by limitation has no substance. It is accordingly rejected.

The impugned judgment is unsustainable for yet another contention, viz. that State of Punjab v. Shreyans Industries Ltd⁷ is

(2016) 4SCC 769

-139- relied, which dealt with an issue under Punjab Sales Tax Act vis- a-vis power of Commissioner under Section 11(10) of Punjab General Sales Tax Act to extend three years period of limitation. It is argued that the legislature's plenary power is considered and decided in the negative by relying on a principle laid down in the background of the power of a functionary under the Punjab General Sales Tax Act. In conclusion, it is argued, once the distinguishing features of the Shreyans Industries Ltd case in fact and law are appreciated, the conclusion on the vested and accrued right is erroneous.

7. Adverting to the challenge to the Amendment made

through Finance Act 5/2018 to the third proviso of Section 25(1) of the KVAT Act, he relies on the judgment of a learned Single -140- Judge in Sheen Golden Jewels (India) Pvt. Ltd. v. State Tax Officer⁸ wherein the saving provision, section 174 of Kerala State Goods and Services Tax Act 2017, has been upheld. It is argued that the Constitution 101st Amendment has not taken away the power of the State Legislature to amend the KVAT Act. The entries on the subject are more comprehensive, and the conclusion, viz. absence of legislative power to amend the KVAT Act, is erroneous. Therefore, the amendment through Finance Act 5/2018 to the third proviso is valid and within the competence of the State Legislature.

8. Advocates A Kumar, Alan Dev for Aji V Dev, K P Abdul

Azeez, K N Sreekumaran, Premjith Nagendran, Harishankar V Menon, S K Devi, Mr S Anil Kumar, Bobby John, N. 2019 (1) KLT OnLine 3302 -141- Muraleedharan Nair, Mayankutty Mather, and P.S Soman have made detailed and elaborate submissions supporting the

judgment under appeal. The arguments, we feel, are better

noted by summing up as follows:

(i) The registered dealers/respondents are conscious of their obligations under the KVAT Act from the time a taxing event occurs till the payment of tax and filing of annual returns.

(ii) The dealers/respondents are not questioning the

legislative competence of the State Legislature in amending the provisions of the KVAT Act; extending the above argument, it urged the plenary power of the State Legislature encompasses the power to make law retrospectively as well. But, it is argued with considerable -142- force that the amendment to Section 25(1) made through Finance Act 11/2017 by clear expression is not retrospective. From the very amendment in the third proviso, it is spelt out in clear language that the legislature, by choice and expression, employed two different dates viz. Section (6) Sub-Section (3) of Finance Act 11/2017 i.e., 01.04.2017, and another date i.e., 31st March 2017 in the third proviso to Section 25 of the KVAT Act. Therefore, the prospective operation of the amendment made to Section 25(1) and retrospective operation to the third proviso are expressions given by the Legislature. The argument that amendment to Section 25(1) substituting five years to six years is retrospective and covers the assessments for which the period of limitation expired by 31.03.2017 would give more -143- retrospective effect than what is expressed by the Legislature.

(iii) The assessments for which unamended provision is

applicable by 31.03.2017, the jurisdiction to issue a notice under Section 25(1) is completed. Therefore, a right or defence is created in such cases where the five years were completed on 31.03.2017, and no steps for reassessment were taken up. In cases where a right is accrued or vested is noticed, the interpretation of the provision in the amended portion must receive strict construction.

(iv) The argument of appellants/State is that by

expression and necessary implication, the amendment to Section 25(1) is retrospective; it is against the established principles of the construction of the

statutes. -144-

(v) There could be different dates for commencement of

the Act and the operation of the Act. In the amendment carried out by Finance Act 11/2017, the commencement and operation of the Act could be the same, but two different dates are incorporated. [See Jyothi Traders case: Commencement of the Act can be different than the operation of the Act though sometimes both may be the same] It is for the Legislature to determine, and the Legislature has determined the commencement and operation as 01.04.2017 for the amendment made to Section 25(1) of KVAT Act by the Finance Act 11/2017.

(vi) The Calcutta Discount Co. Ltd case (supra) is

appreciated in the background facts and dates noted in the -145- judgment. The judgment is distinguishable, and the amending act in the said reported judgment provided the date of coming into operation of the amended provision as 30.03.1948.

(vii) The amendment to Section 25(1) substituting five

years to six years is substantive. The limitation is usually a procedural law, and retrospective operation is through strict construction, and the expression of the legislature must be unambiguous. (viii) The dealers/petitioners cannot be subjected to reassessment for the period completed by 31.03.2017 unless the amended provision inserted by amendment is either expressly or by necessary implication retrospective.

(ix) In Najeems case, the Division Bench has examined the

-146- similar line of argument of the appellant/State and held that the Finance Act 11/2017 is prospective for the assessment year 2010-11 insofar as Section 25(1) of the Act.

(x) On the second ground of challenge in the Writ Appeal

viz. the Constitutionality of amendment to the third proviso to Section 25(1) of the KVAT Act, the counsel refer, with considerable force, on the conclusions recorded by the learned Single Judge in the impugned judgment. It is further argued that the Gujarat and Telangana High Courts have referred to the very conclusion with approval in Reliance Industries Ltd v. State of Gujarath⁹; Sri Sri Engineering works v. Deputy Commissioner (CT) Begumpet Division, Hyderabad¹⁰. The operative portion of the judgment under appeal is noted in 2020 (4) TMI 499 2022 (7) TMI 420 -147- the judgment of the Supreme Court in the Union of India v. M/s.Mohit Minerals Pvt., Ltd, through Director 11 case. The legislative competence, it is argued, is changed through an amendment to the constitution. Under Article 246A of the Constitution, the State cannot or could not have, by tracing to Entry 54 of Schedule II, amended a repealed Act.

(xi) Amendment by Finance Act 5/2018 in Section 25(1)

the third proviso is an amendment to a repealed Act which power cannot be stated as saved by Section 174(4) of Kerala State Goods and Service Tax Act. The legislative competence is not traced through the saving provision, and the competence is traced to the present, i.e., when the legislature by amendment is carried out. Civil Appeal No.1390/2022dated 19.05.2022 -148-

(xii) the citations relied on by them in support of their argument are:

(i) A. Hajee Abdul Shakoor and Company v. State of Madras¹²

(ii) Somaiya Organics (India) Ltd v. State of U.P¹³

(iii) The C.I.T Bombay v. Onkarmal Meghraj (H.U.F)¹⁴

(iv) K.M Sharma v. Income Tax Officer, Ward 13(7), New Delhi¹⁵

(v) S.S Gadgil v. Lal and Co.¹⁶

(vi) Commercial Motors Limited v. Commissioner of Trade Tax, Uttar Pradesh, Lucknow¹⁷ AIR 1964 SC 1729 2001 (5) SCC 519 1974 (3) SCC 349 2002 (4) SCC 339 AIR 1965 SC 171 2015 (15) SCC 168 -149-

(vii) Reliance Industries Ltd. v. State of Gujarat¹⁸ (viii) M/s. Sri Sri Engineering Works and others v. The Deputy Commissioner (CT), Begumpet Division, Hyderabad and others¹⁹ The Counsel pray for dismissing the appeals.

9. We have noted the rival submissions made at the Bar,

perused the record and the citations relied on by both sides. We would, before proceeding with our discussion, refer to the prefatory paragraph, which is apt to the case on hand in the Calcutta Discount Co. Ltd case, which reads as follows:

1. This appeal involves a short and simple point, but it was sought to be presented as if it involved an Intricate question of interpretation of statutes and also a profound question of constitutional law. In my opinion, whatever the true answer to the question may be, there is no room for either intricacy or profundity. 2020 (4) TMI 499 2022 (7) TMI 420

-150- The counsel on both sides made arguments from more than one perspective, in support of their respective cases, to some extent, expanding the area of consideration by this Court. But, we are convinced that the learned Single Judge has framed correct points for deliberation and answered as noted above. We prefer to consider in the batch of appeals the same points and lines answered against the appellant herein. Thus, the facets for our consideration would be (a) and (c).

10. Finance Act 11/2017 through Section 6 amended Section 25(1) and proviso of KVAT Act. The preamble and the proposed amendment read as follows:

1. Short title and commencement-

(1) This Act may be called the Kerala Finance Act, 2017.

(2) Save as otherwise provided in this Act, it shall be deemed to have come into force on the 1st day of April 2017. -151- The amended section 25 reads as shown in footnote²⁰.

11. In the Jyoti Traders case, the Supreme Court referred

to a few decisions relied on by the appellant and expressed the views excerpted above. The very language under construction or interpretation bears significance, and the well-established principles on canons of interpretation are applied to ascertain the meaning of a text. 11.1 The rival submissions evaluated as a square or a circle result in the following principles:

(i) Construction of a statute is the act or process of (3) in section 25, in sub-section (1), -

(i) for the words "five years", the words "six years" shall be substituted;

(ii) for the third proviso, the following proviso shall be substituted, namely:

"Provided also that the period for proceeding to determine any assessment including those subjected to extension under section 25B which expires on 31st March 2017, shall be extended up to 31st March, 2018."; -152- interpreting or explaining the meaning of the legal text and is essentially a synonym of interpretation. The word interpretation in legal parlance means: Properly the ascertainment of a texts meaning or specifically the determination of how a text fittingly applies to the facts or controversies.

(ii) The commencement and actual date of an Act/amendment to an Act can be the same or different.

(iii) The plenary power of legislature enables the making of prospective and retrospective laws.

(iv) Law of limitation is normally considered procedural;

the object of time limits in Section 25(1) of the KVAT Act does not create any right but prescribes periods within which proceedings may be initiated for reopening of - 153- assessment.

(v) As a general rule, almost invariable rule, a legislature makes law for the future, not for the past.

(vi) The presumption against retrospectivity is a guide to

interpretation but not a constitutional imperative because the presumption applies even when the constitution does not forbid retroactive. Therefore, the presumption is a canon of interpretation and not a rule of constitutional law, so a Statute can explicitly or by clear implication be made retroactive.

(vii) The central issue in considering whether the right

was acquired or is carried out will generally be whether steps that remain to be taken under the repealed statute were the steps necessary for acquiring a right or incurring -154- liability or whether these steps were required merely for enforcing a right or liability that had come into existence. Unless there are words in the Statutes sufficient to show the intention of the legislature to affect existing rights, the legislation is deemed to be prospective only. As a logical corollary from the general rule that retrospective operation is not taken to be intended, unless that intention is manifested by expressed words or necessary implication, there is a subordinate rule to the effect that a Statute or a section in it is not to be construed to have a larger retrospective operation than its language renders such interpretation necessary. [See *Gardner & Co. v. Cone* (1928) All ER Rep 458; *S.S. Gadgil v. Lal & Co.* AIR 1965 SC 171, pg.177; *K.S. Paripoornan v. -155- State of Kerala* (1992) 1 SCC 684] (viii) Lastly, close attention must be paid to the language of the statutory provision for determining the scope of the retrospectivity intended by Parliament. [See *Union of India v. Raghubir Singh* 1989 (2) SCC 754; *Sangam Spinners v. Regional Provident Commissioner*

(2008) 1 SCC 391 para 18] In the above background let us analyse the circumstances of the case and the amendments carried out by the Finance Act

13. On 15/03/2017, Finance Bill No.5516/Leg.A2/

2017/Law was placed before the Legislative Assembly of the State of Kerala. On 16th June 2017, the bill was passed into Act -156- assent of the Governor. In the Bill, placed before the Legislative Assembly, the applicable sections read thus: 1. Short title and commencement - (1) This Bill may be called the Kerala Finance Act,

2017

(2) Save as otherwise provided in this Bill, it shall be

deemed to have come into force on the 1st day of April 2017. (emphasis supplied)

Section 6 deals with Amendment of Act 30 of 2004 of the KVAT Act. Sub-section

(3) reads as follows: (3) in section 25, in sub-section (1)-

(i) for the words five years the words six years shall be substituted:

(ii) for the third proviso, the following proviso shall be

substituted, namely:- Provided also that the period for proceeding to determine any assessment including those subjected to extension under Section 25B which expires on 31st March, 2017, shall -157- be extended up to 31st March 2018.

14. Now let us construe what is the plain expression

either for the commencement of the Act or for the operation of the Finance Act 11 of 2017. For the said purpose, we would refer to Section 1(2), which is excerpted above, and it begins with the words Save as otherwise provided in the Act, the Act shall be deemed to have come into force on the 1st day of April 2017. The Legislative Assembly on 16.06.2017 passed the Finance Act, but the commencement of the Act is from 01.04.2017. There is no prohibition in law to have two dates, one for commencement and another for the operation of provisions. The amendment in Section 6(3) intended for Section 25 of the KVAT Act substitutes the words five years with the words six years. It is here the State argues that the substitution, which is though from the -158- phraseology used in Finance Act 11/2017 spells out 01.04.2017, still, the amendment is a substitution hence will have retrospective operation touching the assessments which are time-barred with the completion of 31.03.2017, i.e., for the assessment year 2010-11. The amendment in Act 11/2017 should not be read in isolation of the words saved as otherwise provided in this Act. Because of the plain language employed in Section 1 of Finance Act 11/2017, it would be clear that the Legislature, in its wisdom, employed the commencement and operation of substituted words with effect from 01.04.2017. The meaning now given by the appellants from the

sequence of events noted in the preceding paragraphs and the very will expressed by the State Legislature through categorical words does not admit a meaning or construction canvassed by the -159- appellants. In this context, the words save as provided by this Act means save as otherwise expressly stipulated by the Act. We gather further strength for our view that the amendment to Section 25(1) of the Act is effective from 01.04.2017 from the definite date used, i.e., 03.03.2017 by the State Legislature in the third proviso introduced through Section 6(3) of the Finance Act 11/2017. Therefore, from the very words used by the State Legislature, the State Legislature is conscious of the commencement date and operation date and employed them as intended.

15. The learned Single Judge, while answering point (a),

has taken note of the different timelines stipulated by the State Legislature and noted the accrued right in the dealers/assesseees for the Assessment Years for which limitation gets expired by -160- 31.03.2017 has ticked on both the tests, namely that expression is clear that the substituted word, namely five years to six years, could be effective from 01.04.2017. The competence of the Legislature to affect an accrued right is not canvassed. The purpose of construction through the principal tools is summed up in paragraph 11.1. The view of the learned Single Judge and our view would not make the amendment to Section 25(1) more than what is expressed and intended by the State Legislature. The long and short of the conclusion is the substituted words six years, being operational in the Statute Book with effect from 01.04.2017, the Assessment Year 2010-11 is excluded from the reassessment enquiry by 31.03.2017. The fundamental rule in any interpretation is that if the legislative expression is unambiguous; the Courts employ the golden rule of -161- interpretation and give the meaning applicable to the words employed by the State Legislature. We are clear in our mind and interpretation that the amendment to Section 25(1) of KVAT Act substituting the words five years to six years is prospective, and for the above additional reasons we have stated in the preceding paragraphs, we confirm the view taken in the judgment on the point. Therefore, we agree with the reasons and conclusions of the learned Single Judge on this behalf.

16. The line of submissions now made by the appellant

are additional arguments conceived to get over the conclusions recorded in Najeems case. The decisions relied on by the appellants before us, a substantial number of judgments were considered, and a conclusion that Section 25(1) amended by -162- Finance Act 11/2017 is prospective has been recorded by this Court in Najeems case. The learned Single Judge followed the view expressed by the Division Bench in Najeems case. The substantial question is whether prospective or retrospective and vested rights have accrued to the dealers or not, where the time for reassessment expired by 31.03.2017 has been considered in Najeems case and also the impugned judgment. Though an attempt has been made to refer to the issue considered in Najeems case and being considered by us in this batch of appeals, which needs reconsideration by the Full Bench, we are convinced that the additional grounds now canvassed by keeping in perspective Najeems case do not change the conclusion arrived at in Najeems case in our consideration for the reasons we have recorded in the -163-

judgment.

17. The next point for consideration arises on the

competence of the State Legislature to amend the Kerala Value Added Tax Act through Finance Act 5/2018. Constitution (101st Amendment) Act 2016 (for consistency CAA) is in force from 16.09.2016. CAA made a few important changes by way of insertion, repeals, and amendments to a few clauses of the Constitution, including the Sixth and the Seventh Schedules to the Constitution of India. With effect from 22.06.2017, the State of Kerala repealed the KVAT Act and, in its place, legislated Kerala Goods and Services Tax Act. Section 174 of the KGST Act deals with the repeal and savings. The Kerala GST Act has been in force from 23.06.2017 in the State of Kerala. On 31.03.2018, the Finance Act 5/2018 was passed by the Legislative Assembly -164- and received the assent of the Governor of Kerala on the 31 st day of March 2018. Section 10 of Finance Act 5/2018 deals with amendments proposed to the Kerala Value Added Tax Act, 2003. Section 10(1)(4) of Act 5/2018 deals with the amendment to the third proviso, and the amendment passed by the Legislature reads thus:

(4) in section 25, in the third proviso to sub-section (1), for the words and figures "31st March, 2018" the words and figures "31st March, 2019" shall be substituted;

18. By referring to the extended period of limitation in

the third proviso to Section 25(1) of the KVAT Act, reopening or reassessment notices are issued by the Department. The grounds of challenge to the notices impugned are referred to in the judgment under appeal and are also reiterated before us, -165- supporting and opposing notices. To avoid repetition, we are not referring to the arguments in detail.

19. The additional argument canvassed by the appellants is that Entry 54 of the Seventh Schedule is substituted with effect from 16.09.2016 by the CAA. The unamended and amended entries read thus: Unamended Amended 54. Taxes on the sale or 54. Taxes on the sale of petroleum crude, purchase of goods other than high speed diesel, motor spirit (commonly newspapers, subject to the known as petrol), natural gas, aviation provisions of entry 92-A of List turbine fuel and alcoholic liquor for human I. consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.

Since the legislative competence is traceable to Article 246A, -166- which speaks about goods - supply of goods or services, the argument canvassed is that under Article 246A, the State Legislature has broader power than what it had before 16.09.2016. The repeal of the KVAT Act shall not be understood as taking away the original power of the State Legislature to make amendments to the repealed Act. The amendments are not simultaneously operating along with Kerala Goods and Services Tax Act. Still, the amendments provide for the extension of the period of limitation for assessment attracting Section 25(1) of the KVAT Act, and the same is legal and constitutionally valid.

20. The learned counsel appearing for the respondents

argue that CAA 101st Amendment has introduced major changes in the distribution of power to levy taxes between the State and -167- the Centre. The

KVAT Act, for all purposes, is repealed, and Section 174 of the KVAT Act cannot be understood in any way as continuing to remain with the State Legislature to make amendments to a repealed Act for all times to come. Once it is an accepted position in the constitutional scheme of things that the Legislature had the competence to enact the KVAT Act upon the amendment of the corresponding Articles and items in the schedule, the State Legislature is without power to legislate or amend or otherwise. The State Legislature, in the scheme of constitutional jurisdiction and separation of powers, cannot be said to derive its legislative power from a saving clause. The State Legislature must have competence on the day on which the Legislature is making the law. It is argued that on 31.03.2018 by referring to Entry in Value Added Tax, the State -168- Legislature does not have competence.

21. The respondents rely on the Constitutional Bench

judgment in Hajee Abdul Shakoor and Company v. State of Madras²¹

for the proposition that the State Legislature had lost the power to make amendments to the VAT Act after substitution made to Entry 54 by the CAA, which reads thus:

This provision, however, did not apply to the 1939 Act which had been enacted much earlier than the commencement of the Constitution. By August 28, 1963, when the Act was enacted by the Madras Legislature, Art.286(3) had been amended and Act LII of 1952 had also been repealed. Consequently, there was no Constitutional requirement for the Act being reserved for the assent of the President before it could be enforced. It is contended for the petitioner that the Act really enacted for a period, when if passed, it had to receive the President's assent for its enforcement and that therefore the State Legislature could not even in 1963 enact this provision affecting the taxation law in respect of the sale or purchase of goods which were AIR 1964 SC 1729

goods declared essential for the life of the community. We do not see why such a fetter be placed on the legislative power of the State Legislature. The State legislature is free to enact laws which would have retrospective operation. Its competence to make law for a certain past period, depends on its present legislative power and not on what it possessed at the period of time when its enactment is to have operation. We, therefore, do not agree with this contention.

(emphasis supplied) The ratio in Hajee Abdul Shakoor and Company case is categorical in holding that the State Legislature is free to enact laws which could have retrospective operation. Its competence to make law for specific past periods, however, would depend on its present legislative power and not on what it possesses at the time when the enactment would be in operation. On 16.12.2019, through the impugned judgment, while answering point (c), the following conclusions are recorded by the learned Single Judge: -170-

18. I am given to understand that an intra-court appeal against the aforesaid judgment of the learned Single Judge is pending consideration before a Division Bench of this Court. At any rate, the said judgment, which dealt with actions taken by the revenue authorities before the amendments brought in to the KVAT Act through the Kerala Finance Act, 2018, did not have to consider the issue of legislative competence of the State Legislature to amend the KVAT Act, after the CAA, 2016, and the repeal of the KVAT Act pursuant thereto, on 22.06.2017. It is to a consideration of the said issue that I now turn.

19. As already noticed above, the amendments effected to

Section 25 (1) of the KVAT Act, through the Kerala Finance Act 2017, were before the repeal of the KVAT Act with effect from 22.06.2017. The provision as it stood then, and in particular the third proviso thereto,

authorised the re-opening of past assessments till 31.03.2018. The amendment effected through the Kerala Finance Act, 2018, with effect from 01.04.2018, enlarged the period for re-opening past assessments from 31.03.2018 to 31.03.2019. Under ordinary circumstances, and based on my findings above as regards the effect of the amendments brought into the third proviso to Section 25 (1) by

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the Kerala Finance Act, 2017, the legislative measures should have sufficed to justify a re opening of past assessments up to 31.03.2019, notwithstanding that the amendment itself was effective only from 01.04.2018. However, the intervention of the CAA 2016, and the consequent repeal of the KVAT Act with effect from 22.06.2017, has a bearing on the legality of the 2018 amendment. A distinction does exist between the saving of rights, privileges, immunities and liabilities under a repealed enactment, through a savings clause inserted in the new enactment traceable to the same legislative power, and an amendment brought in to a repealed enactment after the legislative power itself is taken away. While the legislative power justifying both actions, prior to the CAA 2016, could have been traced to Article 246 of our Constitution, read with the relevant entry in the VIIth Schedule thereto, the position changed when there was a fundamental shift in the nature of the tax levy and a fresh conferment of legislative power to legislate in respect of the new levy. After the CAA 2016, the State Legislatures stood denuded of their power to legislate in respect of taxes on sale or purchase of goods, that was covered under Entry 54 of List II of the VIIth Schedule to the

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Constitution, and they were instead conferred with legislative powers, to be exercised simultaneously with the Parliament, in respect of taxes on supply of goods or services or both. While the new legislative power

could justify the inclusion of a savings clause in the new legislation enacted in respect of the new levy of tax, to save accrued rights, privileges, immunities etc. under the erstwhile enactment, the deletion of Entry 54 of List II automatically denuded the State Legislatures of the power to further legislate on the subject of taxes on sale or purchase of goods, except to the limited extent retained under the Constitution. The power to amend a statute being a facet of the legislative power itself, the State legislature could not have exercised a power to amend the KVAT Act, save to the extent permitted, when it did not retain any residual right to further legislate on the subject of taxes on sale or purchase of goods.

20. There is yet another aspect of the matter. It is trite that

when a Court judges the Constitutionality of a legislative enactment it should try to sustain the validity of the enactment to the extent possible and it should strike down the law only when it is impossible to sustain it *State of Bihar v. Bihar Distillery - IIT* (1996) 10 SC 8541. At the same time, the Court -173-

must proceed to determine the intention of the Parliament, not only from the language used in the statute but also from surrounding circumstances and an understanding of the mischief that was sought to be remedied by the statute. When one applies the said test to the events that took place after the CAA, 2016, it cannot but be noticed that the very purpose of the CAA was to bring about a change in the system of indirect taxation in our country through the introduction of a Goods and Service Tax, and the phasing out of the multitude of indirect tax levies, including value added taxes, that were levied and collected by the Centre and the States. Section 19 of the CAA 2016, which is the sunset clause in the said enactment, envisaged the continuation of the erstwhile system of taxation for a period of one year from the date of enactment of the CAA or till such time as the State legislatures amended or repealed their respective VAT legislations, whichever was earlier. When the State legislature repealed the KVAT Act, while simultaneously bringing into force the new State GST Act, with a savings clause of limited operation,

it effectively acknowledged the absence of any power to legislate thereafter on the subject of tax on sale or purchase of goods, except in

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respect of the limited commodities for which the said power was retained under the Constitution. In respect of all other commodities, the legislative power of the State was only in respect of taxes on the supply of goods or services or both, a power that had to be exercised simultaneously with the Parliament and not unilaterally or exclusively. Thus, at the time of repeal of the KVAT Act, and simultaneous enactment of the State GST Act with a savings clause therein, the savings clause operated only to save rights, privileges, immunities, action taken etc under the erstwhile enactment as it stood at the time of its repeal, which included the amendments brought in through the Kerala Finance Act, 2017. There could not have been any further legislative exercise by the State legislature in relation to the repealed KVAT Act.

The above findings are under challenge in the intra-Court appeal.

22. The Division Bench of Gujarat High Court in Reliance

-175- Industries Ltd v. State of Gujarat²², while dealing with the competence of the State Legislature to amend VAT Act, by referring to repeal provision under Section 174 of the Act, referred to and relied on the view expressed by this Court in Baiju A A v. State Tax Officer²³ and has summarized in paragraph 96 of the judgment as follows:

96. The dictum as laid by the Kerala High Court may be summarized as under: "Amendments made prior to introduction of GST The Legislature can take away a right immunity by retrospective amendment. However, Section 25(1) which was made effective only from April 1 2017, has a prospective operation. Therefore, the Department cannot issue assessment notice where limitation period expired prior to the

amendment. The amendment to the third proviso of Section 25(1) is retrospective in nature. If the same is read to be prospective,

the purpose of this amendment will not be met. The Court held

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that the assessment whose limitation period expired on March 31, 2017 (i.e. Financial Year 2011-12), could have been undertaken till March 31, 2018. Amendments made after the introduction of GST The Constitution (One Hundred and First) Amendment Act, 2016 ('CAA') which came into force on September 16, 2016, stripped the State Legislatures of their power to legislate in respect of sale or purchase of goods covered under Entry 54 of List II of the Schedule VII of the Constitution of India. The sunset clause under Section 19 of the CAA allowed continuation of the erstwhile State VAT laws till September 16, 2017 or until such statutes were repealed or amended, whichever was earlier. The KVAT Act was repealed with effect from June 22, 2017. Since the power to amend is a legislative power, the State Legislature lacked the legislative competence to amend Section 25 of the KVAT Act after the repeal of KVAT Act on June 22,

2017. Therefore, the assessments for the FY 2011-12 could not

have been re-opened after March 31, 2017 (till March 31, 2018) as provided by the Kerala Financial Act, 2018. The existence of legislative competence is fundamental to the exercise of legislative functions and necessarily includes the -
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power to amend. Prior to the repeal of the KVAT Act and the sunset date under the CAA, the Legislature was competent to amend the KVAT Act. Post repeal of the KVAT the savings clause under the KGST Act cannot be relied upon to make any amendments in the erstwhile VAT laws. The savings clause only saves the executive actions such as the power to

issue notices and pass orders under the erstwhile laws but not the power to legislate in respect of the same. Therefore, no amendments whether prospective or retrospective can be made after the concerned erstwhile law has been amended or repealed or if one year has lapsed from the enactment of the CAA."

23. A Division Bench of High Court of Telangana referred

to the view expressed by this Court and also the Division Bench of Gujarat High Court in Reliance Industries Ltd case, referring to the excerpt from Baiju A A case recorded a conclusion on the competence of State Legislature to make law after 16.09.2016 to -178- VAT Act as follows:

144. We are in respectful agreement with the views expressed by the Kerala High Court in Baiju A.A (10 supra). Intention of Parliament in ushering in the GST regime through the Constitution Amendment Act and enactment of the CGST Act and simultaneous enactment of various State GST Acts by the State Legislatures is to avoid multiplicity of taxes by subsuming those indirect taxes in a single tax called GST. It is in this context we have analyzed Section 19 of the Constitution Amendment Act. Viewed thus the amendments brought in by the Second Amendment Act, as discussed above, are wholly inconsistent with the scheme of the Constitution Amendment Act read with the CGST Act and the TGST Act.

24. In M/s.Mohit Minerals Pvt., Ltd. case (supra) the Supreme Court considered and examined the scope and ambit of Article 246A, referred to Baiju A A case and held as follows: 28 In Union of India v. Mohit Mineral Pvt. Ltd., this Court while deciding the constitutional validity of the GST -179-

(Compensation to States) Act 2017 noted that the Constitution Amendment Act 2016 introduced changes in the legislative powers of the Parliament and State legislature relating to indirect taxation. It observed that the amendment "confers concurrent taxing powers on the Union as well as the States for levying GST on transactions of supply of goods or

services or both". In *Baiju v. State Tax Officer, GST2*, a writ petition was filed challenging the legality of the notices and assessment orders issued under the Kerala Value Added Tax Act 2003⁵³ for the assessment years 2010-11 and 2011-12. The notices and orders were challenged on the ground that the authorities did not have the jurisdiction to issue them since the amendments introduced to Section 25(1) of the KVAT Act through the Kerala Finance Acts 2017 and 2018 did not operate retrospectively. The Kerala High Court had to decide whether the Kerala State legislature had the legislative competence to amend the KVAT Act after the introduction of Article 246A to the Constitution, and the repeal of KVAT pursuant to the amendment. The Court noted that the special power introduced by Article 246A allows Parliament and the State legislatures to 'simultaneously' make laws. Subsequently, while explaining the 'simultaneous' nature

-180- of power held by Parliament and State legislature, it was observed that the power under Article 246A can be exercised simultaneously by the State legislature and Parliament and none hold any 'unilateral or exclusive' legislative power.

25. The learned counsel appearing for respondents argue

in a straight and simple way that the new grounds now canvassed to trace competence to amend KVAT Act through Finance Act 5/2018 are considered in detail by the Gujarat and Telangana High Courts. The view has been approved and adopted as one of the reasons for setting aside the legislation impugned before the respective Courts. The Supreme Court in *M/s. Mohit Minerals Pvt.Ltd* case has referred to the very

conclusion now under challenge before this court in the intra-

Court appeal. Therefore, any other view on legislative competence to amend the KVAT Act after CAA 10.09.2016 and -181- GST Act 22.06.2017 is impermissible and would be contrary to two persuasive judgments of Gujarat and Telangana High Courts and the consideration by the Supreme Court in *M/s.Mohit Minerals Pvt. Ltd* case. It is not the case of appellants that the competence to legislate is

directly derived from Entry 54 as it stood in 2018. But the attempt is to trace the power to Article 246A of the Constitution of India.

26. We have taken note of the applicable amendments

introduced by CAA to the Constitution of India, corresponding changes in the schedules, and taken note of the repeal of the KVAT Act and the extent of operation of Section 174 of Kerala Goods and Services Taxes Act. The legislative competence to amend KVAT Act through Finance Act 5/2018 is not established. In our view, and from the scope and scheme of powers enjoyed -182- by the Centre and the State as regards the supply of goods and services, power to amend the KVAT Act is unavailable. The principle laid down in the A Hajee Abdul Shukoor and Company case is also applied by the Gujarat and Telangana High Courts. The amendment to KVAT Act by Finance Act 5/2018 is without competence. We are in complete agreement with the view taken in the judgment under appeal i.e., Baiju A A case. The two points on which the appeals are maintained are rejected. For the above reasons and discussions, the appeals fail and hence are dismissed accordingly. Sd/- S.V.BHATTI JUDGE Sd/- BASANT BALAJI JUDGE jjj/js

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