

Ratheesh S vs Assistant Commissioner (Works Contract)

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Court : Kerala

Decided On : Jul-01-2022

Judge : Honourable Mrs. Justice Shoba Annamma Eapen

Appeal No. : WP(C)/30555/2018

Appellant : Ratheesh S

Respondent : Assistant Commissioner (Works Contract)

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN FRIDAY, THE 1ST DAY OF JULY 2022 / 10TH ASHADHA, 1944
WP(C) NO. 30555 OF 2018 PETITIONER/S: RATHEESH S AGED 40 YEARS JAYASREE BHAVAN, THEKKADA, VEMBAYAM PO, THIRUVANANTHAPURAM BY ADVS. P.S SOMAN PULLADAN K.SUNDAR RESPONDENT/S: 1 ASSISTANT COMMISSIONER (WORKS CONTRACT) TOWER, KARAMANA PO, THIRUVANANTHAPURAM-695001. 2 THE COMMISSIONER TOWER, KARAMANA P.O. THIRUVANANTHAPURAM-695001 3 THE SECRETARY TAXES DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM-695001 4 CENTRAL

BOARD OF EXCISE AND CUSTOMS DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NEW DELHI-
110001 OTHER PRESENT: SMT. RESMITHA R. CHANDRAN - GP
THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01.07.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: ..2..

JUDGMENT

The writ petition is filed by the petitioner challenging 101 st

Constitutional Amendment of the Kerala State Goods and Services Tax Act, 2017 stating that the provisions of the Kerala Value Added Tax Act, 2003 can be enforced only until the expiry of one year from the date on which the nationwide goods and service tax was implemented or until the amendment was repealed by a competent Legislature and the petitioner further challenges Ext.P1 notice issued by the first respondent stating that it is unconstitutional as it is ultra vires of the Constitution of India.

2. Heard the learned counsel for the petitioner and the learned Government Pleader.

3. The aforesaid challenge of 101 st Constitutional Amendment

of the Kerala State Goods and Services Tax Act, 2017 has been considered by this Court in Sheen Golden Jewels (India) Pvt.Ltd. v. State Tax Officer (IB)-1, Investigation Branch, Thiruvananthapuram and others [2019 KHC 205] and decided against the petitioner. Hence, in view of the judgment in Sheen Golden Jewels (Supra) the petitioner is not entitled to get any relief against the said challenge.

4. However, Ext.P1 challenged in this writ petition is a ..3..

notice issued by the first respondent under Section 25(1) of the KVAT Act, 2003, for the assessment year 2013-14. The petitioner has not so far filed objection to the notice since the writ petition was pending before this court. Hence, I am of the

opinion that this writ petition can be disposed of with a direction to the petitioner to file objection if any, to Ext.P1 notice, before the first respondent.

5. Accordingly, the writ petition is disposed of as follows: The petitioner is directed to file objection, if any, to Ext.P1

notice with all supporting documents before the first respondent within a period of one month from the date of receipt of a copy of this judgment. The first respondent shall consider the objections on merits and pass appropriate orders if not already passed, in accordance with law, after affording an opportunity of hearing to the petitioner. The petitioner shall also produce a copy of this judgment along with a copy of this writ petition, before the first respondent.

sd/- SHOBA ANNAMMA EAPEN, JUDGE MBS/ ..4.. APPENDIX OF WP(C) 30555/2018 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE PRE ASSESSMENT NOTICE NO. 32011369044/2013-14 DATED 08.06.2018 ISSUED BY THE 1ST RESPONDENT. EXHIBIT P2 TRUE COPY OF THE INTERIM ORDER PASSED BY THIS COURT IN WP(C) NO. 11335/2018 DATED 04.04.2018.

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