

C P Rasheed vs State of Kerala,

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Court : Kerala

Decided On : Jan-31-2020

Judge : Honourable Mr.Justice K.Vinod Chandran,Honourable Mr. Justice Ashok Menon

Appeal No. : RP/1065/2019

Appellant : C P Rasheed

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN & THE HONOURABLE MR. JUSTICE ASHOK MENON FRIDAY, THE 31ST DAY OF JANUARY 2020 / 11TH MAGHA, 1941 RP.No.1065 OF 2019 IN OT.Rev. 104/2015 AGAINST THE ORDER/JUDGMENT IN OT.Rev 104/2015 OF HIGH COURT OF KERALA REVIEW PETITIONER: C P RASHEED AGED 46 YEARS C.P.R.CHICKEN STALL, PUTHIYANGADI, CALICUT. BY ADVS. SRI.S.ANIL KUMAR (TRIVANDRUM) SRI.C.RAMACHANDRAN SRI.M.RAJAGOPAL RESPONDENT/S: STATE OF KERALA, OTHER PRESENT: SR.GP SRI.C.K.GOVINDAN THIS REVIEW PETITION HAVING COME UP FOR

ADMISSION ON 31.01.2020, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

ORDER

Dated this the 31st day of January, 2020

Vinod Chandran, J.

The above review is filed only on the aspect of denial of input tax credit. In the

judgment under review, finding input tax to be a

measure by which cascading effect of taxation on value addition is avoided, we
denied credit insofar

as the selling dealer having not paid u

satisfied their tax obligation. The State having been deprived, to that extent, it was
held there was no question of input tax credit.

2. The review has been filed on the ground that, subsequently, it has come to the
notice of the review petitioner that their suppliers had paid advance tax, at the time
of entry into the State, on inter-state transport. The review petitioner seeks credit
for that advance tax paid.

3. The learned Senior Government Pleader on instructions submits that the
suppliers had not

paid the entire tax for the transactions they carried out. The assessment orders as
against the suppliers indicate that advance tax paid, comes to only a small
proportion of the total sales turnover

indicated by them. In that circumstances, w

credit available from the advance tax paid, by a supplier, will be only in the
proportion, the sale to the petitioner assessee by that supplier, bears to the total

sales effected by that supplying dealer. The above exercise shall be done within a period of three months from the date of receipt of a certified copy of this order, with notice to the assessee.

Review petition is disposed of on that count with the above directions. No order as to costs. Sd/- K. VINOD CHANDRAN, JUDGE. Sd/- ASHOK MENON, JUDGE. Jma/ APPENDIX PETITIONER'S/S EXHIBITS: ANNEXURE A TRUE COPY OF THE JUDGMENT DATED 10.8.2018 OF THIS HON'BLE COURT IN O.T.REV.NO.104 OF 2015. ANNEXURE B TRUE COPY OF THE LETTER DATED 20.2.2019 OF THE STATE PUBLIC INFORMATION OFFICER AND ASSISTANT COMMISSIONER, SGST DEPARTMENT, KASARAGOD.

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