



2024/KER/48177

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

MONDAY, THE 1ST DAY OF JULY 2024 / 10TH ASHADHA, 1946

WP(C) NO. 9681 OF 2024

PETITIONER:

RAJU SREEDHARAN,
AGED 62 YEARS
LEENA BHAVAN, MAYYANAD,
KOLLAM, PIN - 691 303.

BY ADVS.
MEERA V.MENON
R.SREEJITH
K.KRISHNA
ACHYUTH MENON
PARVATHY MENON
PADMANATHAN K.V.

RESPONDENT:

THE SUPERINTENDENT,
CENTRAL TAX & CENTRAL EXCISE,
KOTTIYAM RANGE, ST. MARY'S BUILDING,
KADAPPAKADA, KOLLAM,
PIN - 691 008.

SRI. SREELAL N.WARRIER - SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 01.07.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



JUDGMENT

The petitioner is an assessee under the provisions of the Central Goods and Services Tax Act/Kerala State Goods and Services Tax Act, 2017 (for short, 'the CGST/KSGST Act'). The petitioner filed the annual return in Form GSTR - 9 along with GSTR - 9C for the financial years 2018 - 2019 and 2019 - 2020 belatedly. But the respondent has demanded late fee and created huge demand by Ext.P3 order. The petitioner states that the Central Government has vide Exts.P4 and P5 notifications waived late fee in excess of Rs.10,000/- liable to be paid under Section 47 of the CGST/KSGST Act in respect of an assessee who did not file annual returns for the period from financial year 2018 - 2019 till 01.04.2023 but filed



the same on or before 31.08.2023. The petitioner states that he has filed the annual returns for the said years before 01.04.2023 and is entitled to the benefits of the said notifications and Ext.P3 is liable to be set aside.

2. The learned counsel for the petitioner relies on the judgment of this Court in W.P.(C) No.30644 of 2023 dated 09.04.2024 [**Anishia Chandrakanth v. the Superintendent, Central Tax & Central Excise**], wherein it has been held that in view of Exts.P4 and P5 notifications, there appears to be no justification in continuing with the notices for non payment of late fee for belated GSTR - 9C filed by tax payees before 01.04.2023, the date on which one time amnesty commences. The operative portion of the judgment reads as under:-

“25. When the Government itself has waived late fee under the aforesaid two notifications



Nos.7/2023 dated 31.03.2023 and 25/2023 dated 17.07.2023 in excess of Rs.10,000/-, in case of non-filers there appears to be no justification in continuing with the notices for non payment of late fee for belated GSTR 9C, that too filed by the taxpayers before 01.04.2023, the date on which one time amnesty commences.

In view of the aforesaid discussion, I am of the view that notices are unjust and unsustainable to the extent it sought to collect late fee for delay in filing GSTR 9C. However, it is made clear that the petitioners will not be entitled to claim refund of the late fee which has already paid by them over and above Rs.10,000/-."

3. In the light of the said judgment, Ext.P3 is set aside to the extent it sought to collect late fee for delay in filing GSTR - 9C. However, the petitioner will not be entitled to claim refund of the late fee which has already been paid by him over and above Rs.10,000/-.

The writ petition is disposed of.

Sd/-

**MURALI PURUSHOTHAMAN
JUDGE**

**APPENDIX****PETITIONER'S EXHIBITS:-**

- EXHIBIT P1 COPY OF SHOW CAUSE NOTICE ISSUED BY THE RESPONDENT DTD. 30-01-2023.
- EXHIBIT P2 COPY OF REPLY FILED BY THE PETITIONER BEFORE THE RESPONDENT DTD. 26-05-2023.
- EXHIBIT P3 COPY OF ORDER ISSUED BY THE RESPONDENT DTD. 17-08-2023.
- EXHIBIT P4 COPY OF NOTIFICATION NO. 07/2023-CENTRAL TAX ISSUED BY GOVERNMENT OF INDIA, MINISTRY OF FINANCE, NEW DELHI DTD. 31-03-2023.
- EXHIBIT P5 COPY OF NOTIFICATION NO. 25/2023-CENTRAL TAX ISSUED BY GOVERNMENT OF INDIA, MINISTRY OF FINANCE, NEW DELHI DTD. 17-07-2023.
- EXHIBIT P6 COPY OF ORDER IN WPC NO. 32069/23 OF THIS HON'BLE COURT DTD. 22-11-2023.
- EXHIBIT P7 COPY OF ORDER IN WPC NO. 19565/23 OF THIS HON'BLE COURT DTD. 04-07-2023.
- EXHIBIT P8 COPY OF ORDER IN WPC NO. 28055/23 OF THIS HON'BLE COURT DTD.23-08-2023.

RESPONDENTS ANNEXURES: NIL.