



2024/KER/50810

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

MONDAY, THE 8TH DAY OF JULY 2024 / 17TH ASHADHA, 1946

WA NO. 938 OF 2024

AGAINST THE JUDGMENT DATED 20.03.2024 IN WP(C) NO.6240 OF 2024 OF
HIGH COURT OF KERALA

APPELLANT/PETITIONER:

SUNIL KUMAR K,
AGED 47 YEARS
PROPRIETOR, 'M/S NANDINI TRADERS', THEVELAPPURAM,
PUTHOOR, KOLLAM DISTRICT, PIN - 691507

BY ADVS.
SRI.BOBBOY JOHN
SRI.S.AJAYGHOSH KUMAR

RESPONDENTS:

- 1 THE STATE TAX OFFICER-I, KOTTARAKKARA,
TAX PAYER SERVICE CIRCLE, STATE GST DEPARTMENT, MINI
CIVIL STATION, KOTTARAKKARA, PIN - 691506
- 2 THE ASSISTANT COMMISSIONER, STATE TAX OFFICE,
KOTTARAKKARA,
STATE GST DEPARTMENT, MINI CIVIL STATION,
KOTTARAKKARA, PIN - 691506
- 3 THE DEPUTY COMMISSIONER (AR) TAX PAYER SERVICE,
STATE GOODS AND SERVICE TAX DEPARTMENT, KOLLAM,O/O OF
JOINT COMMISSIONER, TAX PAYER SERVICE, SGST
DEPARTMENT,ASRAMAM P O, KOLLAM DISTRICT, PIN - 691502
- 4 THE CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS,
REPRESENTED BY THE PRINCIPAL COMMISSIONER GST,
GST POLICY WING, NO.503, B WING, 5TH FLOOR, CBIC,
HUDCO VISHALA BUILDING, BHIKAJI CAMA PLACE, R. K.
PURAM, NEW DELHI, PIN - 110066



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BY ADV THOMAS MATHEW NELLIMOOTTIL, SC

BY GOVERNMENT PLEADER SMT.RESHMITHA RAMACHADRAN,

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
08.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



JUDGMENT

Dr. A.K.Jayasankaran Nambiar, J.

The petitioner in WP(C).No. 6240 of 2024 is the appellant herein aggrieved by the judgment dated 20.03.2024 of the learned Single Judge in the Writ Petition.

2. Briefly stated the facts necessary for the disposal of the Writ Appeal are as follows:

The appellant who was a dealer under the Central Goods and Services Tax Act/Kerala State Goods and Services Tax Act, (CGST/SGST), 2017 and Rules approached the writ court impugning Ext.P12 assessment order. The principal contention raised by the learned counsel for the appellant was that the assessment order was communicated to the appellant through the portal that was notified by the Government for such purposes in accordance with Section 146 of the CGST Act, and hence he was not aware of the order since he had accessed the portal belatedly. It was his further contention that the Government had not notified the portal for the purposes of uploading orders, notices, etc., and therefore, the portal could be used only for the specific purposes mentioned in Section 146 of the Act.



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3. The learned Single Judge who considered the matter found that albeit belatedly, the petitioner had downloaded the assessment order from the very same portal, and therefore, the delay occasioned in retrieving the assessment order from the portal was a predicament that the appellant found himself in because of his own latches. The learned Single Judge, therefore, relegated the appellant to his alternate remedy of filing an appeal in terms of Section 107 of the GST Act. The Writ Petition was dismissed with the aforesaid finding.

4. Before us, it is the submission of the learned counsel for the appellant Sri. Bobby John, that the notification of the portal in terms of Section 146 was only for the purposes of facilitating registration, payment of tax, furnishing of returns, computation, and settlement of integrated tax, electronic waybill, and for carrying out such other functions as may be prescribed. He argued that in as much as the uploading of orders is not a purpose specifically mentioned in Section 146, the common portal cannot be used for such purposes.

5. Attractive though the submissions may appear at first blush, we are afraid, we cannot accept the same. A reading of Section 169 of the Act makes it abundantly clear that any decision, order, summons, notice or other communication under the Act or Rules may be served on



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the assessee, *inter alia*, by making it available on the common portal. We are of the view that this statutory provision has to be read along with the provisions of Section 146, and when so read, it would mean that once a common portal is notified for the purposes of the Act, then any of the actions such as registration, payment of tax, furnishing of returns, etc., as also the communication of notices, orders, etc., as provided for under the statute can be effected through the notified portal. We have also been shown a copy of the notification amending the earlier notification issued under Section 146 of the CGST Act so as to make it abundantly clear that the notification of the common portal can also be, *inter alia*, for all functions provided under the CGST Rules, 2017. The said amendment has also been given retrospective effect from 22.06.2017. Thus, in any view of the matter, we find no reason to interfere with the judgment of the learned Single Judge that is impugned in the Writ Appeal.

The Writ Appeal fails and is accordingly dismissed.

Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
SYAM KUMAR V.M.
JUDGE

mns