



2024/KER/41080

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 11TH DAY OF JUNE 2024 / 21ST JYAISHTA, 1946

WP (C) NO. 34004 OF 2015

PETITIONER/S:

USHA BAGRI,
AGED 35 YEARS
PROPRIETRESS, KRISHNA GRANITES & CERAMICS NH 47- BYE
PASS ROAD, PALARIVATTOM, ERNAKULAM, COCHIN-682 024

BY ADV SRI.R.MURALEEDHARAN

RESPONDENT/S:

- 1 THE ASSISTANT COMMISSIONER
KVAT SPECIAL CIRCLE-III, DEPARTMENT OF COMMERCIAL
TAXES, ERNAKULAM, COCHIN-682 015
- 2 THE ASSISTANT COMMISSIONER-II
AUDIT ASSESSMENT, DEPARTMENT OF COMMERCIAL
TAXES, ERNAKULAM, CIRCLE, 682 015

OTHER PRESENT:

SMT. THUSHARA JAMES (SR GP)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
11.06.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**J U D G M E N T**

The petitioner is a registered dealer engaged in the business of Marbles, Granite, Vitrified tiles, ceramic tiles and wall tiles etc. According to the petitioner while uploading the annual returns for the year 2014-15, the statement of closing stock as on 28-05-2015 (Ext.P2) was uploaded instead of the closing stock as on 31-03-2015. It is the case of the petitioner that on noticing the mistake the petitioner filed Ext.P1 before the Assessing Authority and requested for permission to correct the mistake. Exhibit P1 is an E-mail communication sent by the petitioner on 14-09-2015. However, the petitioner was served with Exts.P6 to P8 notices. Exhibit P6 pertains to the year 2014-15 and Exts.P7 and P8 pertain to the months of April and May of 2015. The learned counsel for the petitioner would submit that these notices are issued after the petitioner intimated the mistake committed while uploading the statement of closing stock filed in terms of the provisions contained in Rule 22 (3)(v) of the Kerala Value Added Tax Rules, 2005 ('the 2005 Rules'). It is submitted that the 2nd respondent is taking the stand that there is no provision to enable the filing of a revised copy of stock inventory as on 31-03-2015.

2. The learned Senior Government Pleader would submit that though there is provision for correction of returns in terms of the provisions



contained in Rule 22 of the 2005 Rules, the said Rule does not appear to cover documents required to be uploaded along with the returns in terms of sub-rule (3) of Rule 22. It is submitted that it is for the petitioner to suitably respond to Exts.P6 to P8 notices, which were, thereafter, be finalized by the respondent in accordance with the law.

Having heard the learned counsel for the petitioner and the learned Government Pleader, I am of the view that the petitioner is entitled to an order permitting him to file / upload a revised stock statement as of 31-03-2015. Sub-rule (4A) of Rule 22 of the 2005 Rules contemplate the filing of a revised return where the dealer detects any omission or mistake in the return submitted by him under sub rule (1) of Rule 22. Sub-rule (3) of Rule 22 deals with the documents that have to be uploaded by the dealer along with the return filed under sub-rule (1) of Rule 22. In the facts of the present case the mistake on the part of the petitioner was that she uploaded the stock inventory as on 28-05-2015 instead of the stock inventory as on 31-03-2015 [which is the requirement under Rule 22 (3)(v) of the 2005 Rules]. In my view the provisions of sub-rule (4A) of Rule 22 should be interpreted as permitting the dealer also to revise or correct any mistake in the documents uploaded along with returns under Rule 22 (1), as any other interpretation would mean that while the dealer is permitted to revise his return on



detecting a mistake, he cannot correct a mistake in any of the documents uploaded along with the returns. In the light of the above finding, this writ petition will stand disposed of directing the 2nd respondent to permit the petitioner to correct the copy of stock inventory (closing stock) as on 31-03-2015 which was filed along with the annual returns submitted by the petitioner for the year 2014-15. Thereafter, the petitioner shall suitably reply to Exts.P6 to P8 notices. If the 2nd respondent is satisfied that the mistake committed by the petitioner was a genuine mistake and considering the fact that the petitioner herself had brought to the notice of the 2nd respondent that such a mistake had been committed (even prior to the issuance of Ext.P6 to P8 notices), the 2nd respondent shall drop further proceedings against the petitioner. The 2nd respondent shall take a decision in the matter as directed above after affording an opportunity of hearing to the petitioner, within a period of four months from the date of receipt of a certified copy of this judgment.

Sd/-
GOPINATH P.
JUDGE

APPENDIX OF WP(C) 34004/2015

PETITIONER EXHIBITS

EXT.P1: TRUE COPY OF THE INTIMATION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT REGARDING TE ERROR ONE-FILING THE STATEMENT OF CLOSING STOCK, DT. 14/9/15

EXT.P2: TRUE COPY OF THE CLOSING STOCK INVENTORY WRONGLY UPLOADED BY THE PETITIONER ON 31/5/15

EXT.P3: TRUE COPY OF THE ACTUAL CLOSING STOCK INVENTORY AS ON 31/3/15, TO BE FILED BY THE PETITIONER

EXT.P4: TRUE COPY OF THE STATEMENT OF CLOSING STOCK AS ON 28/5/15, SUBMITTED TO THE 2ND RESPONDENT ON AUDIT VISIT

EXT.P5: TRUE COPY OF THE AUDIT REPORT IN FORM NO. 13 & 13A AND THE CONNECTED ANNUAL FINANCIAL STATEMENT FILED BYT EH PETITIONER FOR 14-15, DT. 26/10/15

EXT.P6: TRUE COPY OF THE NOTICE ISSUED UNDER SEC. 24 BY THE 2ND RESPONDENT FOR THE YEAR 14-15 DT. 5/10/15

EXT.P7: TRUE COPY OF THE NOTICE ISSUED UNDER SEC. 24 BY THE 2ND RESPONDENT FOR THE RETURN PERIOD , APRIL 15 DT. 23/9/15

EXT.P8: TRUE COPY OF THE NOTICE ISSUED UNDER SEC. 24 BY THE 2ND RESPONDENT FOR THE RETURN PERIOD MAY 15/ DT. 23/9/15