

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

WEDNESDAY, THE 13TH DAY OF SEPTEMBER 2023 / 22ND BHADRA, 1945

WP(C) NO. 29932 OF 2023

PETITIONER:

S.MANGALAN



RESPONDENTS:

- 1 THE DISTRICT COLLECTOR
COLLECTORATE, THIRUVANANTHAPURAM, 2ND FLOOR, CIVIL
STATION BUILDING, CIVIL STATION ROAD,
THIRUVANANTHAPURAM, PIN - 695043
- 2 THE THASILDAR
TALUK OFFICE, MINIL CIVIL STATION, CHIRAYINKEEZHU,
THIRUVANANTHAPURAM, PIN - 695101
- 3 THE VILLAGE OFFICER
KADAKKAVUR VILLAGE OFFICE, ATTINGAL,
THIRUVANANTHAPURAM, PIN - 695306
- 4 THE SALE TAX OFFICER
OFFICE OF SALE TAX OFFICER , ST OFFICE MINI CIVIL
STATION ATTINGAL THIRUVANANTHAPURAM, PIN - 695306
- 5 THE VILLAGE OFFICER
ATTINGAL VILLAGE OFFICE, ATTINGAL, THIRUVANANTHAPURAM,
PIN - 695101

ADV.RESHMITA RAMACHANDRAN -GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 13th day of September, 2023

1. Heard Sri.Sarin Panickar, learned counsel for the petitioner as well as Ms.Reshmitha Ramachandran, learned Government Pleader appearing for the respondents.

2. This writ petition has been filed under Article 226 of the Constitution of India impugning Ext.P1 and Ext.P4 notices for recovery of the Sales Tax dues against the petitioner along with interest and collection charges for the period from 31.08.2022 to 11.08.2023 for sale of Indian Made Foreign liquor by the petitioner for which he has been granted license.

3. After some arguments, learned counsel for the petitioner submits that the petitioner is ready to make payments in instalments as per the provisions of Rule 30(B) of the Kerala General Sales Tax

Rules,1963 and under Section 23(3) of the Kerala General Sales Tax Act.

4. The learned counsel for the petitioner submits that outstanding tax amount is Rs.1,29,58,830/- with interest of Rs.14,69,851/- and collection charge of Rs.10,82,151/- with processing cost of Rs.170/- (Total of Rs.1,55,11,002/-) as per the notice dated 11.08.2023. The petitioner moved an application to the District Collector praying that the petitioner should be allowed to pay the outstanding tax amount with interest in fifty instalments. Under the provisions of the Kerala General Sales Tax Act and Rules, the District Collector has no authority or power to grant instalments for payment of the tax dues. The Kerala General Sales Tax Acts and Rules empowers the assessing authority ie.,the Sales Tax Officer to grant 6 instalments as per the provisions of Rules 30(B) of the KGST Rules.

5. In view thereof, the petitioner is permitted to move an application before the 4th respondent for

availing 6 instalments as per the provisions of Rules 30(B) of the KGST Rules within a period of ten days from today. If such an application is filed by the petitioner, the 4th respondent is directed to take a decision on the application in accordance with law within a period of 15 days thereof. For a period of one month, the impugned notices shall not be implemented.

6. With the aforesaid directions, the present writ petition stands finally disposed of.

Sd/-

DINESH KUMAR SINGH

JUDGE

APPENDIX OF WP(C) 29932/2023

PETITIONER EXHIBITS

- Exhibit P1 THE TRUE COPY OF NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DATED ON 11.08.2023 UNDER SECTION 36 OF REVENUE RECOVERY ACT
- Exhibit P1(a) THE TRUE OF ENGLISH TRANSLATION OF THE EXTP 1
- Exhibit P2 THE TRUE COPY OF MEDICIAL CERTIFICATE ISSUED BY DR. SHINE SADASIVAN, MD DNB (GASTRON), CLINICAL PROFESSOR AND HEAD OF THE DEPARTMENT, DEPARTMENT OF GASTROENTEROLOGY, AMRITA INSTITUTE OF MEDICAL SCIENCE AND RESEARCH CENTRE, KOCHI DATED OB 18.08.2023
- Exhibit P3 THE TRUE COPY OF REPRESENTATION LETTER FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED ON 05.09.2023
- Exhibit P3(a) THE TRUE OF ENGLISH TRANSLATION OF THE EXTP 3
- Exhibit P4 THE TRUE COPY OF LETTER ISSUED BY THE 2ND RESPONDENT TO THE 3RD RESPONDENT DATED 16.08 .2023
- Exhibit P4(a) THE TRUE OF ENGLISH TRANSLATION OF THE EXTP 4