



2024:KER:13060

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

**MONDAY, THE 19<sup>TH</sup> DAY OF FEBRUARY 2024 / 30<sup>TH</sup> MAGHA, 1945**

**WP(C) NO. 10995 OF 2023**

**PETITIONER/S:**

- 1 FIROS C.A.,  
AGED 42 YEARS  
S/O. ABDULLA C, CHERENGAL THODI, KOMBAM, KODAKKAD,  
MANNARKKAD, KOTTAPPURAM, PALAKKAD DISTRICT - 678583
- 2 ABDULLA .C.,  
AGED 76 YEARS  
S/O. HYDER HAJI, CHERENGAL THODI, KOMBAM, KODAKKAD,  
MANNARKKAD, KOTTAPPURAM, PALAKKAD DISTRICT - 678583  
BY ADV E.C.AHAMED FAZIL

**RESPONDENT/S:**

- 1 STATE OF KERALA,  
REPRESENTED BY ITS SECRETARY, KERALA STATE GOODS AND  
SERVICE TAX DEPARTMENT, SECRETARIAT,  
THIRUVANANTHAPURAM- 695001
- 2 THE DISTRICT COLLECTOR, PALAKKAD,  
CIVIL STATION, PALAKKAD - 678503
- 3 COMMERCIAL TAX OFFICER, PALAKKAD,  
FOURTH CIRCLE, STATE GOODS AND SERVICE DEPARTMENT,  
PALAKKAD DISTRICT -678503
- 4 THE DEPUTY TAHSILDAR (RR), MANNARKKAD,  
TALUK OFFICE, MANNARKKAD -, PIN - 678582
- 5 MANSOOR V.A.,  
VAKKAYIL CHALLAYIL HOUSE, NHAMANGAT POST, CHAVAKKAD,  
THRISSUR DISTRICT - 679563
- 6 ABSAR BUILDWARES PRIVATE LIMITED.,  
REPRESENTED BY ITS MANAGING DIRECTOR/AUTHORIZED  
SIGNATORY, MANSOOR VA, VAKKAYIL CHALLAYIL HOUSE,  
NHAMANGAT POST, CHAVAKKAD, THRISSUR DISTRICT - 679563

JASMINE M.M.-GP

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
19.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



## **JUDGMENT**

**Dated this the 19<sup>th</sup> day of February, 2024**

The present writ petition has been filed by the petitioners seeking the following reliefs:

- (i) To call for records leading to Exhibit P1 and Exhibit P2 and quash the same by issuing a writ in the nature of certiorari or any other appropriate writ order or direction.*
- (ii) To direct Respondent Nos.1 to 4 to recover the amount allegedly dues as per Exhibit P1 and Exhibit P2 to recover from the available assets of the Company namely, M/s.Absar Buildwares Private Limited.*
- (iii) To declare that petitioners are not liable to pay amount due as per Exhibit P1 and Exhibit P2.*
- (iv) To dispense with the filing of English translation of Exhibits in Malayalam/Vernacular language.*
- (v) To grant such other reliefs in favour of the petitioners as this Hon'ble Court may deem fit to grant on the facts and in the circumstances of the case.*

2. Heard Sri.Ahamed Fazil, learned counsel for the petitioner as well as Ms.Jasmin M.M, learned Government Pleader for respondents.

3. The petitioners are the directors of M/s. Absar Buildwares Private Limited company registered under the provisions of the Companies Act. The company failed



to make payment of the dues under the Kerala Value Added Tax Act, 2003. When the taxing authorities could not recover the dues from the company, they issued notice for recovery of the said tax dues against the petitioners, who are the directors. Section 39 of the Kerala Value Added Tax Act, 2003, empowers the taxing authorities to recover the tax dues from the directors of the private company, if the company fails to make payment of the tax.

4. Section 39 of the Kerala Value Added Tax Act, 2003, reads as under.

***“39. Liability of Directors of a Private Company :-***

*Where any tax or other amount recoverable under this Act from any private company, whether existing or wound up or under liquidation, cannot be recovered for any reason whatsoever, every person who was a director of such company at any time during the period for which the tax or other amount is due under this Act shall be jointly and severally liable for the payment of such tax or other amount unless he proves that the non-recovery cannot be attributed to any negligence, misfeasance or breach of duty on his part in relation to the affairs of the company.”*



I do not find that the impugned notices suffer from any illegality, which requires this Court to interfere with, and therefore, the present writ petition is hereby dismissed.

Sd/-

**DINESH KUMAR SINGH**

**JUDGE**

AP



**APPENDIX OF WP(C) 10995/2023**

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE DEMAND NOTICE DATED  
07.02.2023 HAVING RRC NO. 2022/10115/08  
ALONG WITH ITS FORM NO. 1 DATED 31.12.2022  
ISSUED BY THE DEPUTY TAHSILDAR (RR),  
MANNARKKAD
- Exhibit P2 TRUE COPY OF THE DEMAND NOTICE DATED  
07.02.2023 HAVING RRC NO. 2022/10107/08  
ALONG WITH ITS FORM NO. 1 DATED 31.12.2022  
ISSUED BY THE DEPUTY TAHSILDAR (RR),  
MANNARKKAD
- Exhibit P3 TRUE COPY OF THE LIST OF ARTICLES STOCKED  
IN THIRD FLOOR, ASSN BUILDING,  
ANGADIPPURAM, PERINTHALMANNA TALUK,  
MALAPPURAM DISTRICT DATED NIL PREPARED BY  
FIRST PETITIONER