

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYASHTA, 1937

WP(C).No. 136 of 2015 (N)

PETITIONER(S) :

- 1. K KRISHNA KUMAR,
AWD-18, WEST HILL, CALICUT-673 005.**
- 2. S.RAGISH,
AWD NO.17, WEST HILL, CALICUT.**
- 3. SOUMINI RAGHAVAN, MANAGING PARTNER,
MADHAVI TRADING CORPORATION, AWD NO.11,
J.T.ROAD, VATAKARA, CALICUT DISTRICT.**
- 4. SUMA, PROPRIETOR,
MAMATHA TRADERS, AWD NO.11/15, VATAKARA,
CALICUT DISTRICT.**
- 5. FABITHA V.C., AWD NO.8,
J.T.ROAD, VATAKARA, CALICUT DISTRICT.**
- 6. K.T.ABDU RAHIMAN HAJEE & CO., AWD NO.10,
J.T.ROAD, VATAKARA, CALICUT DISTRICT,
REPRESENTED BY ITS MANAGING PARTNER P.V.MAMMOO.**
- 7. O.K.AGENCIES, AWD NO.3, MAIN ROAD, QUILANDY,
CALICUT DISTRICT, PIN-673 305,
REPRESENTED BY ITS PARTNER K.FATHIMA.**
- 8. K.V.MOOSSA KOYA & CO., AWD NO.5, BEACH ROAD,
KOYILANDY, CALICUT DISTRICT, PIN- 673 305.**
- 9. CRESCENT COMMERCIAL STORE, AWD NO.6,
BEACH ROAD, QUILANDY, CALICUT DISTRICT,
REPRESENTED BY ITS MANAGING PARTNER P.SALEEM.**
- 10. MUBARAK TRADERS, AWD NO.2, BEACH ROAD,
KOYILANDY, CALICUT DISTRICT, REPRESENTED BY ITS MANAGING
PARTNER P.BEEVI UMMA.**
- 11. UNITED TRADERS, AWD NO.1, BEACH ROAD,
KOYILANDY, CALICUT DISTRICT,
REPRESENTED BY ITS MANAGING PARTNER V.T.SYED.**

WP(C).No. 136 of 2015 (N)

12. RASITHA.S.,
AWD NO.20, WEST HILL, CALICUT-5.
13. KOZHIKODE JILLA RATION DEALERS' CO-OPERATIVE
SOCIETY LIMITED D.NO.2659, AWD NO.22, KOYILANDY,
KOZHIKODE DISTRICT REPRESENTED BY ITS SECRETARY, K.JALAJA.
14. THE QUILANDY SERVICE CO-OPERATIVE BANK LTD.NO.F-1869,
AWD NO.4, KOYILANDY, KOZHIKODE DISTRICT,
REPRESENTED BY ITS SECRETARY, K.A.AJAYAKUMAR.
15. M.V.PRAKASH, MANAGING PARTNER, M/S.M.VASUDEVAN,
AUTHORISED WHOLESALE DISTRIBUTOR,
OPP.KUTTIPURAM RAILWAY STATION, TIRUR TALUK,
KUTTUPURAM, MALAPPURAM DISTRICT.
16. P.MOHAMMED MAYAN, AWD NO.2, OORAKAM,
VENGARA, TIRURANGADI TALUK.
17. SHAJI AND COMPANY,AWD NO.8, PARAPPANANGADI,
REPRESENTED BY MANAGING PARTNER, SHAJI KURUNIAYAN.

BY ADVS.SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE

RESPONDENT(S):

1. THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
FOOD & CIVIL SUPPLIES DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO FINANCE DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
3. THE COMMISSIONER,
FOOD & CIVIL SUPPLIES DEPARTMENT,
PUBLIC OFFICE BUILDING, OPPOSITE MUSEUM,
THIRUVANANTHAPURAM-695 001.
- * 4. THE DISTRICT SUPPLY OFFICER,
OFFICE OF THE DISTRICT SUPPLY OFFICE,
THRISSUR-680 001.(CORRECTED)
- * THE NAME OF THE PLACE OF THE 4TH RESPONDENT IS CORRECTED AS
“ KOZHIKODE ” INSTEAD OF “ THRISSUR ” AS PER ORDER DATED 13.03.2015
IN I.A.NO.3442 OF 2015

WP(C).No. 136 of 2015 (N)

**** ADDITIONAL R4(A) IMPEADED**

**4(A). THE DISTRICT SUPPLY OFFICER,
OFFICER OF THE SUPPLY OFFICE, MALAPPURAM.**

**** ADDITIONAL RESPONDENT 4(A) IS IMPEADED AS PER ORDER
DATED 13.03.2015 IN I.A.NO.3442 OF 2015.**

**5. THE FOOD CORPORATION OF INDIA,
REGIONAL OFFICE, KESAVADASAPURAM,
PATTOM PALACE P.O., THIRUVANANTHAPURAM-695 004.**

**6. THE DISTRICT MANAGER,
FOOD CORPORATION OF INDIA, KOZHIKODE-673 001.**

**R1-R4(A) BY SENIOR GOVERNMENT PLEADER SOBHA ANNAMMA EAPEN
R5 & R6 BY SRI.T.P.M.IBRAHIM KHAN, S.C, FCI**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONERS' EXHIBITS

- P1: TRUE COPY OF COMMUNICATION DATED 19/03/2014.**
- P2: TRUE COPY OF THE JUDGMENT DATED 22/08/2014 IN
W.P(C)NO..23537/2012.**
- P3: TRUE COPY OF LETTER, DATED 24/04/2014 ISSUED BY
THE 3RD RESPONDENT.**
- P4: TRUE COPY OF THE STATEMENT OF AMOUNT FOR REIMBURSEMENT,
PREFERRED BY THE PETITIONER.**
- P4(A): TRUE COPY OF THE STATEMENT DATED 15/10/2014.**
- P4(B): TRUE COPY OF THE ACKNOWLEDGEMENT CARD SIGNED BY
THE 4TH RESPONDENT.**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.A. TO JUDGE

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.136 OF 2015 (N)

Dated this the 6th day of January, 2015

J U D G M E N T

The petitioners are authorised wholesale dealers of rationed articles in Kozhikode District. There were amounts paid by them towards tax in respect of the turnover of rationed articles. It is the case of the petitioners that they were exempted from payment of tax, and, hence, there was no legal basis for the collection of tax from them by the respondents. Pursuant to orders of the Government, it was clarified that the petitioners were not liable to pay tax during the period in question. Accordingly, the petitioners have approached the 4th respondent with representations giving details of the tax paid by them and seeking a refund of the same. In the writ petition, the grievance of the petitioner is that although these representations were preferred before the 4th respondent in October, 2014, the 4th respondent has not passed any orders on the same.

2. I have heard Sri.M.V.Bose, the learned counsel appearing for the petitioners as also Smt.Sobha Annamma Eappen, the learned

Government Pleader appearing on behalf of the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I dispose the writ petition with a direction to the 4th respondent to consider and pass orders on the representations, if any, preferred by the petitioners, seeking refund of the tax paid by them during the relevant period, within a period of three months from the date of receipt of a copy of this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp