

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 8594 of 2015 (Y)

PETITIONER(S):

- 1. KERALA RATION WHOLESALE DISTRIBUTORS
FEDERATION, REPRESENTED BY ITS
GENERAL SECRETARY, SANTHOSH VARGHESE,
KARAR BUILDING, M.C.ROAD, KOTTAYAM-686 001.**
- 2. M/S. C.V.GEORGE & SONS, AWD-1,
VADASSERIKARA P.O., RANNY-689 662, REPRESENTED
BY MANAGING PARTNER ANI VARGHESE.**
- 3. C.K.BHASKARA PILLAI & CO., AWD-2, ANGADI P.O.,
RANNI, REPRESENTED BY MANAGING PARTNER
B.UPENDRAN NAIR.**
- 4. M/S.BABY JOHN & CO, AWD-3, ANGADI,
P.O.NELLIKKOMON, RANNI, REPRESENTED BY
MANAGING PARTNER BABY JOHN.**
- 5. M/S.PHILIP IDICULA & CO., AWD-4, KARIKULAM P.O.,
RANNI, REPRESENTED BY MANAGING PARTNER
ROY EAPEN.**
- 6. M/S.S.A.R. BASHEER & CO., AWD-5, CHITTAR P.O.,
PATHANAMTHITTA, REPRESENTED BY
MANAGING PARTNER S.A.R. BASHEER**
- 7. SUBHAG SUNDAR, AWD-1,
MYPAPPARA, PATHANAMTHITTA.**
- 8. PONNAMMA VARGHESE,
PROPRIETOR, AWD-2, KONNI P.O.**
- 9. M/S.M.T. TRADERS & CO., AWD-3, KOZHENCHERRY,
REPRESENTED BY MANAGING PARTNER GEORGE.**
- 10. P.K.PARAMESWRAN NAIR & CO., AWD-4, KONNI,
REPRESENTED BY MANAGING PARTNER P.SUNIL.**
- 11. E.S.DANIEL CO., AWD-5, KAIPPATTOOR,
PATHANAMTHITTA, REPRESENTED BY
MANAGING PARTNER BENNY DANIEL**

12. JOHNSON P. VARGHESE, PROPRIETOR,
AWD-6, THEKKEMALA P.O., KOZHENCHERRY.
13. M/S.T.M.S.RAWUTHER & CO., AWD-7,
PATHANAMTHITTA, REPRESENTED BY
MANAGING PARTNER ZAKEER HUSSAIN.
14. M/S.MANTHANATHU AGENCIES, AWD-8,
KULANADA, PANTHALOM, REPRESENTED BY
MANAGING PARTNER N.C.RAJASEKHARAN NAIR.
15. TWCS NO.P587/02, AWD-1, PARAKODE, P.O.,
ADOOR, REPRESENTED BY THE SECRETARY.
16. MAYA G.R., PROPRIETRESS,
AWD-2, PANDALOM P.O.
17. PRADHA DEVI, AWD-3, PARAKKODE.
18. M/S.P.V.THOMAS & CO., AWD-4, KALANJOOR P.O.,
PATHANAMTHITTA, REPRESENTED BY MANAGING
PARTNER P.V.THOMAS.
19. TWCS NO.P.587/02, AWD-5, ADOOR,
REPRESENTED BY THE SECRETARY.
20. EAPEN GEEVARGHESE,
AWD-1, PULIKEEZHU, THIRUVALLA.
21. LALU SEBASTIAN,
PROPRIETOR, AWD-3, THIRUVALLA.
22. ESS VEE & CO., AWD-3, THIRUVALLA,
REPRESENTED BY MANAGING PARTNER
GEROGE VARGHESE.
23. SUNILKUMAR, PROPRIETOR, AWD-4,
P.O.KUMBANAD, THIRUVALLA.
24. K.V.IDICULA & CO., AWD-1, MALLAPPALLY WEST P.O.,
REPRESENTED BY MANAGING PARTNER, K.V.IDICULA.
25. PRASANNA SASIDHARAN, PROPRIETRESS,
AWD-2, KOTTANGAL, MALLAPPILLY.
26. V.J.THOMAS, PROPRIETOR, AWD-3,
VENNIKKULAM P.O., MALLAPPALLY, PATHANAMTHITTA.

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

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
FOOD & CIVIL SUPPLIES DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE STATE OF KERALA, REPRESENTED BY
THE 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 OFFICER,
PATHANAMTHITTA-689 645.**
- 5. THE FOOD CORPORATION OF INDIA,
REGIONAL OFFICE, KESAVADASAPURAM,
PATTOM PALACE P.O., THIRUVANANTHAPURAM-695 004,
REPRESENTED BY THE PRINCIPAL OFFICER AND
REGIONAL GENERAL MANAGER.**
- 6. THE DISTRICT MANAGER,
FOOD CORPORATION OF INDIA,
PATHANAMTHITTA-689 645.**

**R1 TO R4 BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN
R5 & R6 BY ADV. SRI.M.R.ANISON, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-03-2015 ALONG WITH WPC. 8923/2015, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:**

mbr/

WP(C).No. 8594 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1. TRUE COPY OF COMMUNICATION DATED 19/3/2014.
- EXT.P2. TRUE COPY OF JUDGMENT DATED 22/8/2014 IN WPC NO.23537/2012.
- EXT.P3. TRUE COPY OF LETTER DATED 24/4/2014 ISSUED BY THE
3RD RESPONDENT.
- EXT.P4. TRUE COPY OF REPRESENTATION DATED 4/8/2014.
- EXT.P4(A). TRUE COPY OF ACKNOWLEDGEMENT CARD SIGNED BY THE
4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS:

- NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.8594 of 2015

&

W.P.(C).No.10557 of 2015

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Dated this the 31st day of March, 2015

J U D G M E N T

The petitioners in W.P.(C).No.8594 of 2015 are authorised wholesale dealers of rationed articles in Pathanamthitta district. In W.P.(C).No.10557 of 2015, the petitioners are authorised wholesale dealers of Thiruvananthapuram 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 a representation giving details of the tax paid by them and seeking a refund of the same. In the writ petition, the grievance of the petitioners is that although the representation was preferred before the 4th respondent in 04.08.2014 (W.P.(C).No.8594 of 2015) and 10.02.2015 (W.P.(C).No.10557 of 2015) respectively, the 4th respondent has not passed any orders on the same.

2. I have heard the learned counsel for the petitioners and the learned Government Pleader for 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

mns

W.P.(C).No.8594 of 2015
&
W.P.(C).No.10557 of 2015