

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 11049 of 2015 (E)

PETITIONER(S):

**1.SUBHASH THOMAS & CO. ,
AWD NO.1, NEDUMUDI,
KUTTANAD, ALAPPUZHA,
REPRESENTED BY ITS MANAGING PARTNER BABY VARGHESE.**

**2.SIBY C. MADATHIL
AWD NO.III, CHAMPAKULAM,
KUTTANADU, ALAPPUZHA.**

**3.JOSEPH GEORGE & CO.,
AWD-2, EDATHUA, ALAPPUZHA,
REPRESENTED BY MANAGING PARTNER JINS JOY**

**4.TOJO ABRAHAM,
AWD NO.4, PULINCUNNU,
KUTTANADU, ALAPPUZHA.**

**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.**

W.P.(C).NO.11049/2015

**4.THE DISTRICT SUPPLY OFFICER,
OFFICE OF THE DISTRICT SUPPLY OFFICE,
ALAPPUZHA PIN 688 001.**

**5.THE FOOD CORPORATION OF INDIA,
REGIONAL OFFICE,
KESAVADASAPURAM, PATTOM PALACE P.O.,
THIRUVANANTHAPURAM 695 004.
REPRESENTED BY PRINCIPAL OFFICER AND
REGIONAL GENERAL MANAGER.**

**6.THE DISTRICT MANAGER,
FOOD CORPORATION OF INDIA,
ALAPPUZHA PIN 688 001.**

R BY SRI.M.R.ANISON

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C).NO.11049/2015

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF COMMUNICATION DATED 19.3.2014.

EXT.P2: COPY OF JUDGMENT DATED 22.8.2014 IN W.P.(C).NO.23537/2012.

EXT.P3: COPY OF LETTER, DATED 24.4.2014 ISSUED BY THE 3RD RESPONDENT.

EXT.P4: COPY OF THE REPRESENTATION, DATED 23.1.2015, WITH STATEMENT FOR REIMBURSEMENT, PREFERRED BY THE PETITIONERS BEFORE THE 4TH RESPONDENT.

EXT.P4(A): COPY OF ACKNOWLEDGMENT SIGNED BY THE 4TH RESPONDENT.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.11049 OF 2015 (E)

Dated this the 6th day of April, 2015

J U D G M E N T

The petitioners are authorised wholesale dealers of rationed articles in Allapuzha 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 Ext.P4 representation was preferred before the 4th respondent, 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 Ext.P4 representation, 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