

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No.11402 of 2015 (A)

PETITIONERS:

1. **K.N.KARMACHANDRAN,AWD NO.5,POOCHAKKAL,
CHERTHALA P.O,ALLEPPEY DISTRICT.**
2. **SARAMMA GEORGE AND COMPANY,AWD 6,KATTANAM,
ALAPPUZHA,REPRESENTED BY ITS MANAGING PARTNER JOHN E.J.**
3. **S.T.NINAN & COMPANY,AWD 5,CHARUMMUDU,
ALLEPPEY DISTRICT,REPRESENTED BY ITS MANAGING PARTNER,
SURESH THOMAS NINAN.**
4. **V.C.THOMAS AND COMPANY,AWD 7,BHARANIKAVU,
ALLEPPEY DISTRICT,REPRESENTED BY ITS MANAGING PARTNER,
T.E.ABILASH.**
5. **KOKKAT G.MADHAVAN PILLAI & SON,AWD NO.12, EST FORT,
MAVELIKKARA-1,ALLEPPEY REPRESENTED BY ITS
PARTNER KOKKAT RAMACHANDRAN.**
6. **N.D.PILLAI,AWD NO.8,MANKAMKUZHY,MAVALIKARA,
ALLEPPEY DISTRICT,REPRESENTED BY ITS PARTNER N.D.PILLAI.**
7. **A.V.SAMUEL & SONS,AWD NO.1,MAVELIKKARA,
ALLEPPEY DISTRICT,REPRESENTED BY ITS MANAGING PARTNER,
M.S.ABRAHAM.**
8. **M.S.SIVASANKARA PILLAI & CO.,AWD NO.2,CHERIYANAD,
CHENGANNOOR,ALLEPPEY DISTRICT,
REPRESENTED BY ITS MANAGING PARTNER S.VENUGOPAL.**
9. **M/S.PRIYA AGENCIES,AWD NO.V,CHENGANNOOR,
ALLEPPEY DISTRICT,REPRESENTED BY ITS MANAGING PARTNER,
N.O.KURUVILA.**
10. **M/S.OONNOONNY LUKOSE & CO,AWD NO.4,KALLISSERY,
CHENGANNUR TALUK,ALLEPPEY DISTRICT,
REPRESENTED BY ITS MANAGING PARTNER C.M.JENSE.**
11. **M/S.MATHEN EAPEN & CO,AWD III,MANNAR,CHENGANNUR,
ALLEPPEY DISTRICT,REPRESENTED BY ITS MANAGING PARTNER
LAJI E.PHILIP.**

WP(C).No.11402 of 2015 (A)

12. **M/S.N.NARAYANA PRABHU & SONS,AWD 1,CHERTHALA, ALLEPPEY DISTRICT,REPRESENTED BY ITS PARTNER C.S.MURALIDHARA PRABHU.**
13. **M/S.M.C.M.CHETTIAR,AWD NO.VI,MAYTHARA,CHERTHALA, ALLEPPEY DISTRICT,REPRESENTED BY ITS MANAGING PARTNER JOSE STEPHAN.**
14. **M/S.P.S.NARAYAN & SONS,AWD 4,CHERTHALA,KUTHIYATHOD, ALLEPPEY,REPRESENTED BY ITS MANAGING PARTNER LAILA RAVEENDRAN.**
15. **M/S.D.S.RAO,AWD NO.12,S.CHERTHALA,ALLEPPEY DISTRICT, REPRESENTED BY ITS MANAGING PARTNER S.RATHNAKAR RAO.**
16. **G.SITHA,AWD NO.9,CHERTHALA,MARARIKULAM, ALLEPPEY DISTRICT.**
17. **MATHEW VARGHESE & CO,AWD NO.4,KARTHIKAPPALLY, ALLEPPEY DISTRICT,REPRESENTED BY ITS MANAGING PARTNER SANTHOSH VARGHESE.**
18. **K.S.BABY & CO,AWD 7,KAYAMKULAM,ALLEPPEY DISTRICT REPRESENTED BY ITS MANAGING PARTNER VARGHESE BABY.**
19. **O.SHANAVAS,AWD NO.14,KAYAMKULAM,ALLEPPEY DISTRICT.**
20. **K.K.MOHAMMED & CO,AWD NO.8,KATHIGAPPALLY, ALLEPPEY DISTRICT,REPRESENTED BY ITS MANAGING PARTNER NOUSHAD HUSSAIN.**
21. **P.BASHEERA,AWD 15,KAYAMKULAM,ALLEPPEY DISTRICT.**
22. **MOHAMMED HUSSAIN,AWD NO.11,MUTHUKULAM, ALLEPPEY DISTRICT.**
23. **KHADEEJA KUTTY & CO,AWD 1,ARATTUPUZHA, ALLEPPEY DISTRICT,REPRESENTED BY ITS MANAGING PARTNER RASHEED.**
24. **I.C.ALEX & CO,AWD NO.13,HARIPAD,ALLEPPEY DISTRICT, REPRESENTED BY ITS MANAGING PARTNER I.C.ALEX.**
25. **FATHIMA RAZAK,AWD NO.24,KARTHIKAPILLY, ALLEPPEY DISTRICT,REPRESENTED BY ITS MANAGING PARTNER N.A.THAHA.**

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

WP(C).No.11402 of 2015 (A)

RESPONDENT'S:

1. **STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
FOOD & CIVIL SUPPLIES DEPARTMENT,
GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM-695 001.**
2. **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,
ALAPPUZHA-688 001.**
5. **THE FOOD CORPORATION OF INDIA,
REGIONAL OFFICE,KESAVADASAPURAM,
PATTOM PALACE P.O,THIRUVANANTHAPURAM-695 004,
REPRESENTED BY ITS PRINCIPAL OFFICER AND
REGIONAL GENERAL MANAGER.**
6. **THE DISTRICT MANAGER,FOOD CORPORATION OF INDIA,
ALAPPUZHA-688 001.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No.11402 of 2015 (A)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1:TRUE COPY OF COMMUNICATION DATED 19.3.2014.

EXHIBIT P2:TRUE COPY OF JUDGMENT DATED 22.8.14 IN WPC 23537/2012.

**EXHIBIT P3:TRUE COPY OF LETTER DATED 24.04.14 ISSUED BY THE 3RD
RESPONDENT.**

**EXHIBIT P4:COPY OF THE REPRESENTATION DATED 27.03.15 WITH LIST OF
AWDS FOR REIMBURSEMENT, PREFERRED BY THE PETITIONERS.**

RESPONDENT'S EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 11402 of 2015

Dated this the 7th day of April, 2015

JUDGMENT

The petitioners are authorised wholesale dealers of rationed articles in Alappuzha 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 Ext.P4 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das