

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 11626 of 2015 (C)

PETITIONER(S):

**1. BABY VARGHESE & COMPANY
AWD 7, KUNNATHUNADU, PERUMBBOOR,
REPRESENTED BY PARTNER NICHOLAS VARGHESE.**

**2.SKARIA D. PARACKAL & CO.,
AWD NO.7, KALADY, ERNAKULAM DISTRICT,
REPRESENTED BY MANAGING PARTNER S.M.ANTONY.**

**3.P.B.RADHAKRISHNAN & CO.
AWD VIII, ANGAMALY, ERNAKULAM DISTRICT,
REPRESENTED BY MANAGING PARTNER P.B.RADHAKRISHNAN.**

**4.SKARIA J. MANGALY & CO.
AWD NO.9, ANGAMALY, ERNAKULAM DISTRICT,
REPRESENTED BY MANAGING PARTNER P. MOHAMMED.**

**5.AMBUJAKSHI AMMA & CO.
AWD NO.27, MUVATTUPUZHA, ERNAKULAM DISTRICT,
REPRESENTED BY PARTNER CHANDRA MOHANAN.**

**6.T.K.CHACKO & CO.
AWD NO.24, KOLENCHERI, KUNNATHUNADU TALUK,
ERNAKULAM DISTRICT, REPRESENTED BY MANAGING PARTNER
T.C.MANI.**

**7.K.P.ABDULLAH HAROON & CO.
AWD NO.40, DESOM, ALUVA, ERNAKULAM DISTRICT,
REPRESENTED BY MANAGING PARTNER T.K.THAMPI.**

**8.VR.S.TRADERS
AWD NO.26, MUVATTUPUZHA, ERNAKULAM DISTRICT,
REPRESENTED BY MANAGING PARTNER R.MANOJ KUMAR.**

**9.MONARCH TRADERS,
AWD NO.4, ERNAKULAM DISTRICT,
REPRESENTED BY ITS MANAGING PARTNER N.SUBRAHMANIAM.**

W.P.(C).NO.11626/2015

**10.P.S.ISMAIL,
AWD NO.15,
NORTH PARAVOOR, ERNAKULAM DISTRICT.**

**11.A.E.ALIKUTTY,
AWD 27,MUVATTUPUZHA,
ERNAKULAM DISTRICT.**

**12.THRESSIAKUTTY MATHEW
AWD NO.28,
MUVATTUPUZHA, ERNAKULAM DISTRICT.**

**13.THOMMAN PAILY
AWD NO.38,
KOTHAMANGALAM TALUK, ERNAKULAM DISTRICT.**

**14.BEARLY SCARIA,
AWD 49,
AMBALLOOR, KANAYANNUR TALUK,
ERNAKULAM DISTRICT.**

**15.JIM JOSE
AWD NO.10, ALUVA TALUK,
ERNAKULAM DISTRICT.**

**16.K.BHARATHI AMMA,
AWD NO.35, PIRAVOM, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.**

**17.BABY VARGHESE,
AWD NO.34, KOOTHATTUKULAM,
MUVATTUPUZHA, ERNAKULAM DISTRICT.**

**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.11626/2015

**4.THE DISTRICT SUPPLY OFFICER,
OFFICE OF THE DISTRICT SUPPLY OFFICE,
ERNAKULAM.**

**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, ERNAKULAM.**

**R BY SRI.M.R.ANISON, SC
R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C).NO.11626/2015

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 WITH LIST OF AWDS FOR REIMBURSEMENT, PREFERRED BY THE PETITIONERS AND SERVED ON 27.3.2015.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.11626 OF 2015 (C)

Dated this the 8th day of April, 2015

J U D G M E N T

The petitioners are authorised wholesale dealers of rationed articles in Ernakulam district. 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, 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

prp