IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

MONDAY, THE 07TH DAY OF DECEMBER 2020 / 16TH AGRAHAYANA, 1942

WP(C).No.19436 OF 2020(D)

PETITIONER/S:

SAFARULLA PADIKKAL
AGED 70 YEARS
S/O. KOYAKUNJI, CONTRACTOR, PROPRIETOR, CP II 525, MANNA, VALAPATTANAM, KANNUR 670 010.

BY ADV. SRI.C.K.SREEJITH

RESPONDENT/S:

1 **STATE TAX OFFICER**
GOODS AND SERVICE TAX OFFICE (WORKS CONTRACTOR)
KANNUR 670 001.

2 **THE ASSISTANT COMMISSIONER,**
GOODS AND SERVICE TAX DEPARTMENT, OFFICE OF ASSISTANT COMMISSIONER, KANNUR 670 001.

3 **THE SECRETARY TO GOVERNMENT,**
GOODS AND SERVICE TAX DEPARTMENT, GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT, TRIVANDRUM 695 001.

4 **UNION OF INDIA,**
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, ROOM NO. 46, NORTH BLOCK, NEW DELHI 110 001.

5 **THE COMMISSIONER OF GST AND CENTRAL EXCISE,**
DIVISION, KADHI, 4TH FLOOR, TAZA SUPER MARKET,NEAR GST WEST, COMMISSIONERATE, NEW DELHI 110 001

6 **CHAIRPERSON,**
GOODS AND SERVICES TAX NETWORK, EAST WING , 4TH FLLOR, WORLD MARK-1, AEROCITY, NEW DELHI 110 037.
R1 BY GOVERNMENT PLEADER
R4 BY ADV. MR.P.R.AJITH KUMAR, CGC
R6 BY SHRI.P.R.SREEJITH, SC, GSTN

OTHER PRESENT:

SMT.JASMIN.M.M,GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 7th day of December 2020

The petitioner, a tax payer under the CGST and SGST Act 2017 who has been issued a TIN Number, a registered works contractor under the KVAT Act prior to the introduction of GST in July 2017, through the instant writ petition has approached this Court for issuance of a writ in the nature of mandamus directing the respondents to accept the request for access to GST portal enabling the petitioner to upload return for the periods from the implementation of GST with a further direction to the respondents to accept revised return from 2017 to March 2018. It is submitted that from 31.3.2018, the petitioner has not been able to access the portal and upload the returns. Petitioner had requested the department to rectification of return but no action has been taken. The petitioner has filed the income tax return as evidenced from Exts.P4 and P5.

2. On the other hand, learned Government Pleader

submitted that the request of the petitioner for composition was forwarded to the Joint Commissioner, SGSTD, Kannur vide communication dated 18.11.2019 and 7.1.2020. On receipt of the information, it surfaced that the common portal would only allow to file GSTR 4 and not for composition. The petitioner had also been communicated about this fact vide communication dated 16.1.2020. It is submitted that there is no proof that the GST portal of the petitioner has been blocked after 31.3.2018.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submission of the counsel for the petitioner. There is no proof that the petitioner had actually opted for the portal. The composition is not permitted as the portal only permits for filing of the GSTR 4. The aforementioned communication has already been given to the petitioner vide letter dated 16.1.2020. There is no explanation as to how and in what manner the petitioner has not been able to open the portal nor any photo copy of the proof has been attached or the circumstances in which

the returns could not have been accepted is not explained. The contention of the petitioner is baseless, devoid of merit and no ground for interference is made out. Writ petition is accordingly, dismissed.

Sd/-

AMIT RAWAL

JUDGE

sab

Petitioner's Exhibits:

P1: The true copy of the Registration Certificate issued by the 1st respondent dt. 1/7/2017

P2: The true copy of the email communication dt. 31.8.2019 addressed to 1st respondent

P3: The true copy of the email communication dt. 2/8/2019

P4: The true copy of the Annual Tax Statement U/s 203 AA of Income Tax Act 1961 for the assessment year 2020-21

P5: The true copy of the Annual Tax statement u/s 203AA of Income Tax Act 1961 for the assessment year 2019-20

P6: The true copy of the Annual Tax Statement U/s 203AA of Income Tax Act 1961 for the assessment year 2018-19