**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**TUESDAY, THE 01ST DAY OF DECEMBER 2020 / 10TH AGRAHAYANA, 1942**

**WP(C).No.26533 OF 2020(N)**

**PETITIONERS:**

1 M/S.GLOW GROW HEALTH AND BEAUTY (P) LTD
TC-9/2284-4 AND 6, SASTHAMANGALAM P.O.,
THIRUVANANTHAPURAM-695 010, REPRESENTED BY ITS DIRECTOR
VIJAYAKARAN.K.S.

2 SRI. VIJAYAKARAN.K.S,
DIRECTOR, M/S. GLOW GROW HEALTH AND BEAUTY (P) LTD, TC-9/2284-4 AND 6, SASTHAMANGALAM P.O.,
THIRUVANANTHAPURAM-695 010

BY ADVS.
SHRI.JOHN VARGHESE
SRI.A.L.GEORGE

**RESPONDENTS:**

1 THE STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001

2 STATE TAX OFFICER,
STAGE GST DEPARTMENT, 1ST CIRCLE, 4TH FLOOR,
KILLIPPALAM, KARAMANA P.O., THIRUVANANTHAPURAM-695 002

3 STATE TAX OFFICER (INTELLIGENCE)
MOBILE SQUAD NO.I, STATE GST DEPARTMENT, KERALA, 2ND FLOOR, REVENUE COMPLEX, VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM-695 033

BY GOVERNMENT PLEADER SMT.DR THUSHARA JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

The petitioners have approached this Court impugning Exts.P2 to P4 of assessment orders passed under Section 74 of the CGST Act. In the Writ Petition, it is their case that prior to Exts.P2 to P4 assessment orders, they were subjected to best judgment assessments as evidenced from Exts. P5 to P18 orders, and summaries of the said orders were also served on the petitioners vide Exts.P19 to P32. It is their apprehension that the respondents would now proceed against them for recovery of amounts covered by two sets of assessment orders for the assessment years in question and it is therefore that they have approached this Court seeking a clarification with regard to the course of action to be pursued.

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 and the submissions made across the Bar, I find from a perusal of the averments in the Writ Petition that Exts.P5 to P18 orders are best judgment assessment orders passed in terms of Section 62 of the GST Act for various months between April 2018 to May 2019, taking note of

the non-filing of returns by the assessee. Exts.P19 to P32 are the summary of the orders passed as above. It is not in dispute that pursuant to the said assessment orders completed on best judgment basis there has been no payment effected by the petitioners, and it was therefore that proceedings under Section 74 were initiated and completed through the passing of Exts.P2 to P4 assessment orders. Under such circumstances, there cannot be any doubt that Exts.P2 to P4 orders passed under Section 74 of the GST Act are the assessment orders that will govern the assessment of the petitioners under the Act for the assessment years covered by them. Accordingly, I dispose this Writ Petition by dismissing the challenge against Exts.P2 to P4 assessment orders and relegating the petitioners to their alternate remedy of filing statutory appeals against the said assessment orders before the first appellate authority. It is made clear that Exts.P5 to P18 assessment orders as well as Exts.P19 to P32 summary orders do not survive as against the petitioners in view of the subsequent passing of Exts.P2 to P4 assessment orders.

Sd/-

**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

mns/01.12.2020

**APPENDIX**

**PETITIONER'S/S EXHIBITS:**

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|---|---|
| **EXHIBIT P1** | **TRUE COPY OF THE SHOW CAUSE NOTICE DATED 09.12.2019 ISSUED BY THE 3RD RESPONDENT TO THE 1ST PETITIONER** |
| **EXHIBIT P2** | **TRUE COPY OF THE ORDER FOR THE FINANCIAL YEAR 2017-18 DT 16.02.2020** |
| **EXHIBIT P3** | **TRUE COPY OF THE ORDER FOR THE FINANCIAL YEAR 2018-19 DT 16.02.2020** |
| **EXHIBIT P4** | **TRUE COPY OF THE ORDER FOR THE FINANCIAL YEAR 2019-20 DT 16.02.2020** |
| **EXHIBIT P5** | **TRUE COPY OF THE ASSESSMENT ORDER DATED 29.10.2019 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER FOR THE MONTH OF APRIL, 2018** |
| **EXHIBIT P6** | **TRUE COPY OF THE ASSESSMENT ORDER DATED 29.10.2019 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER FOR THE MONTH OF MAY, 2018** |
| **EXHIBIT P7** | **TRUE COPY OF THE ASSESSMENT ORDER DATED 29.10.2019 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER FOR THE MONTH OF JUNE, 2018** |
| **EXHIBIT P8** | **TRUE COPY OF THE ASSESSMENT ORDER DATED 28.10.2019 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER FOR THE MONTH OF JULY, 2018** |
| **EXHIBIT P9** | **TRUE COPY OF THE ASSESSMENT ORDER DATED 28.10.2019 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER FOR THE MONTH OF AUGUST, 2018** |
| **EXHIBIT P10** | **TRUE COPY OF THE ASSESSMENT ORDER DATED 28.10.2019 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER FOR THE MONTH OF SEPTEMBER, 2018** |
| **EXHIBIT P11** | **TRUE COPY OF THE ASSESSMENT ORDER DATED 28.10.2019 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER FOR THE MONTH OF OCTOBER, 2018** |
| **EXHIBIT P12** | **TRUE COPY OF THE ASSESSMENT ORDER DATED 28.10.2019 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER FOR THE MONTH OF NOVEMBER, 2018** |
| **EXHIBIT P13** | **TRUE COPY OF THE ASSESSMENT ORDER DATED 28.10.2019** |

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|---|---|
| | ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER FOR THE MONTH OF DECEMBER, 2018 |
| EXHIBIT P14 | TRUE COPY OF THE ASSESSMENT ORDER DATED 29.10.2019 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER FOR THE MONTH OF JANUARY,2019 |
| EXHIBIT P15 | TRUE COPY OF THE ASSESSMENT ORDER DATED 29.10.2019 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER FOR THE MONTH OF FEBRUARY,2019 |
| EXHIBIT P16 | TRUE COPY OF THE ASSESSMENT ORDER DATED 29.10.2019 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER FOR THE MONTH OF MARCH,2019 |
| EXHIBIT P17 | TRUE COPY OF THE ASSESSMENT ORDER DATED 06.11.2019 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER FOR THE MONTH OF APRIL,2019 |
| EXHIBIT P18 | TRUE COPY OF THE ASSESSMENT ORDER DATED 06.11.2019 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER FOR THE MONTH OF MAY,2019 |
| EXHIBIT P19 | TRUE COPY OF THE SUMMARY OF THE ORDER DT 14.01.2020 IN RELATION TO EXHIBIT P5,APRIL,2018 |
| EXHIBIT P20 | TRUE COPY OF THE SUMMARY OF THE ORDER DT 14.01.2020 IN RELATION TO EXHIBIT P6-MAY,2018 |
| EXHIBIT P21 | TRUE COPY OF THE SUMMARY OF THE ORDER DT 14.01.2020 IN RELATION TO EXHIBIT P7-JUNE,2018 |
| EXHIBIT P22 | TRUE COPY OF THE SUMMARY OF THE ORDER DT 14.01.2020 IN RELATION TO EXHIBIT P8-JULY,2018 |
| EXHIBIT P23 | TRUE COPY OF THE SUMMARY OF THE ORDER DT 14.01.2020 IN RELATION TO EXHIBIT P9-AUGUST,2018 |
| EXHIBIT P24 | TRUE COPY OF THE SUMMARY OF THE ORDER DT 14.01.2020 IN RELATION TO EXHIBIT P10-SEPTEMBER,2018 |
| EXHIBIT P25 | TRUE COPY OF THE SUMMARY OF THE ORDER DT 14.01.2020 IN RELATION TO EXHIBIT P11-OCTOBER,2018 |
| EXHIBIT P26 | TRUE COPY OF THE SUMMARY OF THE ORDER DT 14.01.2020 IN RELATION TO EXHIBIT P12-NOVEMBER,2018 |
| EXHIBIT P27 | TRUE COPY OF THE SUMMARY OF THE ORDER DT 14.01.2020 IN RELATION TO EXHIBIT P13-DECEMBER,2018 |
| EXHIBIT P28 | TRUE COPY OF THE SUMMARY OF THE ORDER DT 14.01.2020 |

IN RELATION TO EXHIBIT P14-JANUARY,2019

EXHIBIT P29 TRUE COPY OF THE SUMMARY OF THE ORDER DT 14.01.2020 IN RELATION TO EXHIBIT P15-FEBRUARY,2019

EXHIBIT P30 TRUE COPY OF THE SUMMARY OF THE ORDER DT 14.01.2020 IN RELATION TO EXHIBIT P16-MARCH,2019

EXHIBIT P31 TRUE COPY OF THE SUMMARY OF THE ORDER DT 14.01.2020 IN RELATION TO EXHIBIT P17-APRIL,2019

EXHIBIT P32 TRUE COPY OF THE SUMMARY OF THE ORDER DT 14.01.2020 IN RELATION TO EXHIBIT P18-MAY,2019

RESPONDENTS EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE