

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

TUESDAY, THE 20TH DAY OF FEBRUARY 2024 / 1ST PHALGUNA, 1945

WP(C) NO. 37987 OF 2023

PETITIONER/S:

M/S. PLAYADS ADVERTISEMENT SPACES PRIVATE LIMITED,
6/853-1, MAK BUILDING, JUDGEMUKKU, THRIKKAKKARA,
ERNAKULAM, KERALA-682021, REPRESENTED BY ITS DIRECTOR,
JOBY. P. ISSAC, AGED 47 YEARS, S/O. P.V.ISSAC, PUNNAKKAL,
KOLENCHERRY P.O., ERNAKULAM, PIN - 682311

BY ADVS. T.S.HARIKUMAR; P.B.SAHASRANAMAN

RESPONDENT/S:

- 1 SOUTHERN RAILWAY,
REPRESENTED BY ITS SENIOR DIVISIONAL MANAGER, DIVISIONAL
OFFICE, COMMERCIAL BRANCH, TRIVANDRUM, PIN - 695014
- 2 THE COMMERCIAL MANAGER,
SOUTHERN RAILWAY, DIVISIONAL OFFICE, COMMERCIAL BRANCH,
TRIVANDRUM, PIN - 695014
- 3 CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS,
DEPARTMENT OF REVENUE, NEW DELHI- 110001, REPRESENTED BY
ITS CHAIRMAN
- 4 THE COMMISSIONER OF STATE TAX,
9TH FLOOR, TAX TOWER, KILLIPPALAM, KARAMANA P.O.,
THIRUVANANTHAPURAM, PIN - 695002
- 5 THE DEPUTY COMMISSIONER (ARREAR RECOVERY),
TAXPAYER SERVICES, SGST DEPARTMENT, PERUMANOOR P.O.,

THEVARA, ERNAKULAM, PIN - 682015

- 6 THE STATE TAX OFFICER,
OFFICE OF THE STATE GOODS AND SERVICES TAX DEPARTMENT,
2ND CIRCLE, KALAMASSERY, CIVIL STATION. KAKKANADU,
ERNAKULAM, PIN - 682030

BY ADVS.
MANU S., DSG OF INDIA
I.SHEELA DEVI
SHRI.K.R.RAJKUMAR, C.G.C.

OTHER PRESENT:

JASMINE M.M.-GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
20.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

The present writ petition has been filed impugning the Ext.P10 notice issued to the petitioner demanding the CGST of Rs.3,21,920/- and the same amount of SGST, totalling Rs.6,43,840/- besides the applicable interest and penalty.

2. The petitioner had executed contract work for Southern Railways. The GST amount, at the rate of 18% of the contract value, was deducted by Railways. However, the same was not deposited by the Railways. As a result, Ext.P10 notice was issued to the petitioner. The petitioner, being aggrieved by the said notice, as the tax was already deducted by the Railways but not deposited, has filed this writ petition impugning the said notice.

3. Mr Rajkumar learned Counsel appearing for the 1st

and 2nd respondents has submitted that the tax has been deposited now. However, the interest and penalty have not been deposited.

4. Ms Jasmin M M learned that the Government Pleader, on instructions, says that interest and penalty are worked out to Rs.2,67,122/- and Rs.34,248/- respectively as on 01.02.2022.

5. Learned Counsel for the 1st and 2nd respondents submits that the respondents/Railways will hold talks with the GST Department for waiver of the interest and penalty. However, the petitioner may be absolved from any liability and if the talks fail the 1st and the 2nd respondent shall deposit the interest and penalty.

6. Considering the said fact, the impugned show cause notice issued against the petitioner is set aside. The 1st and 2nd

respondents may hold talks with the GST Department for waiver of interest and penalty, and if the talks fail, it would be the responsibility of the 1st and 2nd respondents to deposit the interest and penalty as well. The GST Department will also take a lenient view, as it was the initial period of the GST regime, and the officers and the public, in general, were not aware of the rigour of the law.

With the aforesaid direction, the writ petition stands allowed.

Sd/-

DINESH KUMAR SINGH

JUDGE

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APPENDIX OF WP(C) 37987/2023

PETITIONER EXHIBITS

Exhibit P 1	THE TRUE PHOTOSTAT COPY OF THE LETTER OF ACCEPTANCE ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER VIDES NO.V/C.PUB.5/IPIS-AD/15, DATED 01-07-2015
Exhibit P 2	THE TRUE PHOTOSTAT COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT, DATED 10-06-2016
Exhibit P.3	THE TRUE PHOTOSTAT COPY OF THE COMMUNICATION ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER, DATED 27-09-2022 BY EXTENDING THE CONTRACT FOR ONE YEAR
Exhibit P 4	THE TRUE PHOTOSTAT COPY OF THE COMMUNICATION ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER, DATED 19-09-2023 BY EXTENDING THE CONTRACT FOR ONE YEAR
Exhibit P 5	THE TRUE PHOTOSTAT COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT, DATED 05-07-2017
Exhibit P.6	THE TRUE PHOTOSTAT COPY OF THE REQUEST SUBMITTED BY THE PETITIONER BEFORE THE DIVISIONAL CASHIER OF THE 1ST RESPONDENT, DATED 20-07-2018
Exhibit P 7	. THE TRUE PHOTOSTAT COPY OF THE REQUEST SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT, DATED 12-08-2019
Exhibit P.8	THE TRUE PHOTOSTAT COPY OF THE NOTICE ISSUED BY THE 6TH RESPONDENT TO THE PETITIONER, DATED 09-10-2020

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| Exhibit P. 9 | THE TRUE PHOTOSTAT COPY OF THE REPLY
SUBMITTED BY THE PETITIONER BEFORE THE 6TH
RESPONDENT, DATED 28-10-2020 |
| Exhibit 10 | TRUE PHOTOSTAT COPY OF THE NOTICE ISSUED BY
THE 5TH RESPONDENT TO THE PETITIONER, DATED 05-
09-2023, ALONG WITH TRUE ENGLISH TRANSLATION. |
| Exhibit P.11 | THE TRUE PHOTOSTAT COPY OF THE REPLY
SUBMITTED BY THE PETITIONER BEFORE THE 5TH
RESPONDENT, DATED 25-09-2023 |