IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

TUESDAY, THE 4TH DAY OF JUNE 2024 / 14TH JYAISHTA, 1946

WP(C) NO. 7430 OF 2024

PETITIONER:

TIKENDRA SINGH RITHAL,
AGED 63 YEARS
PROPRIETOR, M/S. BHAWAN SERVICES, 104/A, 3RD FLOOR, CBI MAIN ROAD, VASANTHAPPA BLOCK, GANGA NAGAR, BENGALURU, PIN – 560 032.

BY ADVS.
HARISANKAR V. MENON
MEERA V.MENON
R.SREEJITH
K.KRISHNA
ACHYUTH MENON
PARVATHY MENON
PADMANATHAN K.V.

RESPONDENTS:

1 THE STATE TAX OFFICER,
STATE GOODS & SERVICES TAX DEPARTMENT, MOBILE SQUAD, HOSDURG,KASARGOD, PIN – 683 101.

2 THE JOINT COMMISSIONER (APPEALS),
STATE GOODS & SERVICES TAX DEPARTMENT, ERANHIPALAM, KOZHIKODE, PIN – 673 006.

3 THE BRANCH MANAGER,
BANK OF BARODA, PALACE ORCHARDS BRANCH, SADASHIV NAGAR, BANGALORE, PIN – 560 080.

4 UNION OF INDIA,
REPRESENTED BY SECRETARY TO GOVERNMENT, MINISTRY OF FINANCE (DEPARTMENT OF REVENUE), NORTH BLOCK, NEW DELHI, PIN – 110 001.

5 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, TAXES DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN – 695 001.

BY ADVS
K.ANAND
RESMITHA R. CHANDRAN, GOVERNMENT PLEADER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04.06.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner has filed this writ petition challenging Ext.P12 order. Ext.P12 order is appealable before the Appellate Tribunal under Section 112 (1) of the CGST Act, 2017. Section 112 (8) (b) provides that no appeal shall be filed under Section 112 (1) unless the appellant has paid a sum equal to 20% of the remaining amount of Tax in dispute.

2. The petitioner has preferred this writ petition as the Appellate Tribunal is not constituted.

3. This Court, on 28.02.2024, at the time of admission ordered that the petitioner shall keep alive the Bank Guarantees till the disposal of the writ petition subject to the petitioner making a deposit of 20% of the assessed penalty amount. On such deposit, it was ordered that the Bank Guarantee shall not be invoked

and no recovery shall be effected from the petitioner. This Court on 01.04.2024 passed an order making it clear that if the 20% of the assessed penalty is not paid by 09.04.2024, the writ petition is likely to be dismissed.

4. When the writ petition came up for consideration today, it is submitted by the learned Counsel for the petitioner that the petitioner has not deposited 20% of the assessed tax/penalty as mandated by the Act and as directed by this Court.

Since the deposit as mandated by the CGST Act and as directed by this Court is not made, the writ petition is dismissed.

Sd/-
MURALI PURUSHOTHAMAN
JUDGE

SRJ

APPENDIX OF WP(C) 7430/2024

PETITIONER'S EXHIBITS

EXHIBIT P1	COPY OF INVOICE NO. BS.INV.0013 ISSUED BY BHAWAN SERVICES BANGALORE DTD. 26-09-2019.
EXHIBIT P2	COPY OF INVOICE NO. BS.INV.0014 ISSUED BY BHAWAN SERVICES BANGALORE DTD. 26-09-2019.
EXHIBIT P3	COPY OF E-WAY BILL NO. 501136689838 DTD. 26-09-2019.
EXHIBIT P4	COPY OF E-WAY BILL NO. 501136703662 DTD. 26-09-2019.
EXHIBIT P5	COPY OF JUDGMENT IN WPC NO. 26708/2019 OF THIS HON'BLE COURT DTD. 09-10-2019.
EXHIBIT P6	COPY OF BANK GUARANTEE NO. 7411IGFIN005623 ISSUED BY BANK OF BARODA DTD. 08-06-2023.
EXHIBIT P7	COPY OF BANK GUARANTEE NO. 7411IGFIN005723 ISSUED BY BANK OF BARODA DTD. 08-06-2023.
EXHIBIT P8	COPY OF ORDER IN FORM GST MOV - 09 ISSUED BY THE 1ST RESPONDENT DTD. 23-12-2020.
EXHIBIT P9	COPY OF ORDER IN FORM GST MOV - 09 ISSUED BY THE 1ST RESPONDENT DTD. 23-12-2019.
EXHIBIT P10	COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DTD. 11-02-2020.
EXHIBIT P11	COPY OF APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DTD. 11-02-2020.
EXHIBIT P12	COPY OF ORDER IN GSTA NOS. 40/2020 & 41/2020 ISSUED BY THE 2ND RESPONDENT DTD. 27-11-2023.
EXHIBIT P13	COPY OF ORDER IN WPC NO. 1689/2024 OF THIS HON'BLE COURT DTD. 16-01-2024.