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

**PRESENT**

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

**&**

**THE HONOURABLE MR. JUSTICE EASWARAN S.**

**THURSDAY, THE 27TH DAY OF MARCH 2025 / 6TH CHAITHRA, 1947**

**OT.REV NO. 6 OF 2025**

**ORDER DATED 27.12.2024 IN TA(VAT)NO.287 OF 2024 OF KERALA VALUE ADDED TAX/AGRL.INCOME TAX & SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH-1,THIRUVANANTHAPURAM.**

**REVISION PETITIONER/APPELLANT/APPELLANT:**

**RAHUMATH, AR CHAINS, K.P. HOME, PALLISSERIKKAL, SASTHAMCOTTAH, KOLLAM, PIN – 690521**

**BY ADVS.**
**SRI.ANIL D. NAIR (SR.)**
**SRI.ADITYA UNNIKRISHNAN**
**SRI.NIVEDITA A.KAMATH**
**SRI.BINISHA BABY**
**SRI.ARAVIND RAJAGOPALAN MENON**
**SRI.SARITHA K.S.**

**RESPONDENT/RESPONDENT/RESPONDENT:**

**STATE OF KERALA**
**REPRESENTED BY THE FINANCE SECRETARY, SECRETARIAT, TAXES DEPARTMENT, THIRUVANANTHAPURAM, PIN - 695001**

**BY GOVERNMENT PLEADER SMT.RESMITHA RAMACHANDRAN**

**THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 27.03.2025, ALONG WITH OT.Rev.7/2025, 8/2025 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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

**PRESENT**

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

**&**

**THE HONOURABLE MR. JUSTICE EASWARAN S.**

**THURSDAY, THE 27TH DAY OF MARCH 2025 / 6TH CHAITHRA, 1947**

**OT.REV NO. 7 OF 2025**

**ORDER DATED 27.12.2024 IN TA(VAT)NO.286 OF 2024 OF KERALA VALUE ADDED TAX/AGRL.INCOME TAX & SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH-1,THIRUVANANTHAPURAM.**

**REVISION PETITIONER/APPELLANT/APPELLANT:**

**RAHUMATH**
**AR CHAINS, K.P. HOME, PALLISSERIKKAL, SASTHAMCOTTAH, KOLLAM, PIN - 690521**

**BY ADVS.**
**SRI.ANIL D. NAIR (SR.)**
**SRI.ADITYA UNNIKRISHNAN**
**SRI.NIVEDITA A.KAMATH**
**SRI.BINISHA BABY**
**SRI.ARAVIND RAJAGOPALAN MENON**
**SRI.SARITHA K.S.**

**RESPONDENT/RESPONDENT/RESPONDENT:**

**STATE OF KERALA**
**REPRESENTED BY THE FINANCE SECRETARY, SECRETARIAT, TAXES DEPARTMENT, THIRUVANANTHAPURAM, PIN - 695001**

**BY SR GOVERNMENT PLEADER SRI. V.K SHAMSUDHEEN**

**THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 27.03.2025, ALONG WITH OT.Rev.6/2025 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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

**PRESENT**

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

**&**

**THE HONOURABLE MR. JUSTICE EASWARAN S.**

**THURSDAY, THE 27TH DAY OF MARCH 2025 / 6TH CHAITHRA, 1947**

**OT.REV NO. 8 OF 2025**

**ORDER DATED 27.12.2024 IN TA(VAT)NO.289 OF 2024 OF KERALA VALUE ADDED TAX/AGRL.INCOME TAX & SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH-1,THIRUVANANTHAPURAM.**

**REVISION PETITIONER/APPELLANT/APPELLANT:**

**RAHUMATH, AR CHAINS, K.P. HOME, PALLISSERIKKAL, SASTHAMCOTTAH, KOLLAM, PIN - 690521**

**BY ADVS.**
**SRI.ANIL D. NAIR (SR.)**
**SRI.ADITYA UNNIKRISHNAN**
**SRI.NIVEDITA A.KAMATH**
**SRI.BINISHA BABY**
**SRI.ARAVIND RAJAGOPALAN MENON**
**SRI.SARITHA K.S.**

**RESPONDENT/RESPONDENT/RESPONDENT:**

**STATE OF KERALA**
**REPRESENTED BY THE FINANCE SECRETARY, SECRETARIAT, TAXES DEPARTMENT, THIRUVANANTHAPURAM, PIN - 695001**

**BY GOVERNMENT PLEADER SMT.RESMITHA RAMACHANDRAN**

**THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 27.03.2025, ALONG WITH OT.Rev.6/2025 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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

**PRESENT**

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

**&**

**THE HONOURABLE MR. JUSTICE EASWARAN S.**

**THURSDAY, THE 27TH DAY OF MARCH 2025 / 6TH CHAITHRA, 1947**

**OT.REV NO. 9 OF 2025**

**ORDER DATED 27.12.2024 IN TA(VAT)NO.290 OF 2024 OF KERALA VALUE ADDED TAX/AGRL.INCOME TAX & SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH-1,THIRUVANANTHAPURAM.**

**REVISION PETITIONER/APPELLANT/APPELLANT:**

**RAHUMATH**
**AR CHAINS, K.P. HOME, PALLISSERIKKAL, SASTHAMCOTTAH, KOLLAM, PIN - 695021**

**BY ADVS.**
**SRI.ANIL D. NAIR (SR.)**
**SRI.ADITYA UNNIKRISHNAN**
**SRI.NIVEDITA A.KAMATH**
**SRI.BINISHA BABY**
**SRI.ARAVIND RAJAGOPALAN MENON**
**SRI.SARITHA K.S.**

**RESPONDENT/RESPONDENT/RESPONDENT:**

**STATE OF KERALA**
**REPRESENTED BY THE FINANCE SECRETARY, SECRETARIAT, TAXES DEPARTMENT, THIRUVANANTHAPURAM, PIN - 695001**

**BY SENIOR GOVERNMENT PLEADER SRI.V.K SHAMSUDHEEN**

**THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 27.03.2025, ALONG WITH OT.Rev.6/2025 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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

**PRESENT**

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

**&**

**THE HONOURABLE MR. JUSTICE EASWARAN S.**

**THURSDAY, THE 27TH DAY OF MARCH 2025 / 6TH CHAITHRA, 1947**

**OT.REV NO. 11 OF 2025**

**ORDER DATED 27.12.2024 IN TA(VAT)NO.285 OF 2024 OF THE KERALA VALUE ADDED TAX/AGRL.INCOME TAX & SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH-1,THIRUVANANTHAPURAM.**

**REVISION PETITIONER/APPELLANT/APPELLANT:**

**RAHUMATH**
**AR CHAINS, K.P. HOME, PALLISSERIKKAL, SASTHAMCOTTAH, KOLLAM, PIN - 690521**

**BY ADVS.**
**ANIL D. NAIR (SR.)**
**ADITYA UNNIKRISHNAN**
**NIVEDITA A.KAMATH**
**BINISHA BABY**
**ARAVIND RAJAGOPALAN MENON**
**SARITHA K.S.**

**RESPONDENT/RESPONDENT/RESPONDENT:**

**STATE OF KERALA**
**REPRESENTED BY THE FINANCE SECRETARY, SECRETARIAT, TAXES DEPARTMENT, THIRUVANANTHAPURAM-, PIN - 695001**

**BY SENIOR GOVT. PLEADER SRI. V.K SHAMSUDHEEN**

**THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 27.03.2025, ALONG WITH OT.Rev.6/2025 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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

**PRESENT**

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

**&**

**THE HONOURABLE MR. JUSTICE EASWARAN S.**

**THURSDAY, THE 27TH DAY OF MARCH 2025 / 6TH CHAITHRA, 1947**

**OT.REV NO. 12 OF 2025**

**ORDER DATED 27.12.2024 IN TA(VAT)NO.288 OF 2024 OF THE KERALA VALUE ADDED TAX/AGRL.INCOME TAX & SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH-1,THIRUVANANTHAPURAM.**

**REVISION PETITIONER/APPELLANT/APPLICANT:**

**RAHUMATH, AR CHAI NS, K.P. HOME, PALLISSERIKKAL, SASTHAMCOTTAH, KOLLAM, PIN - 690521**

**BY ADVS.**
**SRI.ANIL D. NAIR (SR.)**
**SRI.ADITYA UNNIKRISHNAN**
**SMT.NIVEDITA A.KAMATH**
**SMT.BINISHA BABY**
**SRI.ARAVIND RAJAGOPALAN MENON**
**SMT.SARITHA K.S.**

**RESPONDENT/RESPONDENT/RESPONDENT:**

**STATE OF KERALA**
**REPRESENTED BY THE FINANCE SECRETARY, SECRETARIAT, TAXES DEPARTMENT, THIRUVANANTHAPURAM, PIN - 695001**

**BY GOVERNMENT PLEADER SRI.RESMITHA RAMACHANDRAN**

**THIS OTHER TAX REVISION (VAT) HAVING COME UP FOR ADMISSION ON 27.03.2025, ALONG WITH OT.Rev.6/2025 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**O R D E R**

**Dr. A.K.Jayasankaran Nambiar, J.**

As all these OT. Revisions raise a common issue for different assessment years, they are taken up together for consideration and disposed by this common order. OT. Revision Nos.6, 8, and 11 of 2025 impugn the common order dated 27.12.2024 of the Kerala Value Added Tax Appellate Tribunal, Thiruvananthapuram, on the issue of penalty imposed on the petitioner during the assessment years 2014-2015, 2015-2016, and 2016-2017 respectively. O.T. Revision Nos.7, 9, and 12 of 2025 impugn the common order of the Tribunal inasmuch as it relates to an assessment done on the petitioner for the assessment years 2014-2015, 2015-2016 and 2016-2017.

2. The brief facts necessary for the disposal of these O.T. Revisions are as follows:

The penalty proceedings against the petitioner herein for the aforesaid assessment years were completed by the Intelligence Officer. In the assessment proceedings that followed the Assessing Officer made additions to the turnover reported by the petitioner based on the findings of the Intelligence Officer in the penalty proceedings. In appeals carried by the petitioner before the First Appellate Authority, against both the penalty order and the assessment order for the aforesaid assessment years, several grounds were raised by the petitioner assessee in relation to the penalty orders passed against her. The First Appellate Authority considered only one ground, and directed a remand of the penalty proceedings to the Original Authority for *de novo* consideration. The other grounds containing a challenge to other issues were not considered by the First

Appellate Authority. In view of the remand of the penalty issue to the Original Authority, the First Appellate Authority remanded the assessment proceedings also to the Original Authority, so that orders could be passed in the light of the fresh penalty orders that were to be passed by the Original Authority.

3.Aggrieved by the action of the First Appellate Authority in remanding the appeals to the Original Authority only on a limited issue, without considering the other issues that were raised before the First Appellate Authority, the petitioner approached the Appellate Tribunal. The Appellate Tribunal by the order impugned in these revisions entered the following findings at paragraphs 7 and 8 of the impugned order:

> "7. We have noticed that the order of the first appellate authority is to modify the impugned orders after allowing opportunity to the appellant to prove their case. Prima facie there is no scope for interference by this Tribunal in the proceedings of the first appellate authority. In the memorandum of appeals also the appellant has not raised any valid ground for interference by this forum. In the grounds of appeal, the appellant has raised various issues based on the merits of the case. As the first appellate authority has not examined the same and as the said authority has remanded the case to the authorities below, it is not proper to go into the merits of the case. When we pointed out this issue across the bench, the learned counsel appeared for the appellant stated that the remand by the first appellate authority has its own limitations as there were specific directions by the said authority to modify the order by deleting the duplicate and multiple entries. This direction was issued after allowing the appellant to prove the case before the Intelligence officer. This argument has got some merits. The appellant had specifically requested to allow them an opportunity of hearing in case the officer is not satisfied with the reply. However it can be seen that the authority has refused this opportunity by stating that several opportunities were given for the appellant for hearing. There are a series of judicial pronouncements to allow the dealer an effective opportunity for hearing after submission of written reply for any notice against him. This is not seen done in this case and this denial of natural justice has been noticed rightly by the first appellate authority but in effect the remand became a limited remand to delete the duplicate and multiple entries.

> 8. In the circumstances mentioned above, it is ordered that the remand of the case by the first appellate authority shall not be limited to the deletion of double and multiple entries, if any, as ordered by the appellate authority. The Intelligence officer shall decide the case after examining the details already produced by the appellant and further details, if any, to be produced by the appellant. The appellant shall furnish further details if any to the Intelligence Officer within three months of receipt of a copy of this order. Officer need not give fresh notice as to the penalty proceedings but shall give an effective opportunity for hearing to the appellant in compliance of principles of natural justice. As to the assessment proceedings, the authority can proceed in accordance with the modified penalty proceedings to be issued by the Officer concerned as per this order. "

4. The grievance projected by the learned Senior counsel Sri.Anil D.Nair assisted by Aditya Unnikrishnan appearing on behalf of the petitioner before us is that, without formally setting aside the orders of the First Appellate Authority, the remand of the issues of penalty and assessment proceedings to the Original Authority, although with widened scope, would not serve any useful purpose since unless the order of the First Appellate Authority is set aside in its entirety, the Original Authority would treat the silence maintained by the First Appellate Authority as a rejection of the grounds of appeal of the petitioner herein on all issues other than those that were specifically remanded by the First Appellate Authority to the Original Authority.

5. We find force in the said contention of the learned Senior counsel. Unless the First Appellate Authority's order is set aside, which appears not to have been done by the Appellate Tribunal in the order impugned before us, the silence of the First Appellate Authority on issues that were canvassed before it, but not considered by it, would be deemed as having been decided against the petitioner. This would seriously prejudice the petitioner in the *de novo* proceedings that have since been directed by the Appellate Tribunal. Hence

without going into the merits of the contentions raised by the petitioner in respect of the penalty and assessment proceedings, which have been remanded to the Original Authority, we allow these OT. Revisions to the limited extent of clarifying that the remand directed by the Appellate Tribunal shall be seen as an open remand on all issues relevant to the determination of penalty, if any, and completion of the assessment against the petitioner for the assessment years in question. To enable the Original Authority to decide the matter afresh, we formally set aside the orders of the Original Authority and the First Appellate Authority. We also direct that, before proceeding to comply with the directions of the Appellate Tribunal and pass fresh orders in the penalty and the assessment proceedings, the Original Authority shall issue fresh notices containing the proposals for imposition of penalty and completion of assessment respectively. In that sense, the directions in this order shall be seen as requiring the Original Authority to pass fresh orders in respect of penalty, and thereafter, in the assessment proceedings, after issuing fresh notices in this regard and considering the objections of the petitioner. The entire exercise of issuing the notices to the petitioner, considering the objections of the petitioner, and thereafter, passing detailed orders in respect of the penalty and assessment proceedings shall be completed within an outer time limit of six months from the date of receipt of a copy of this order.

Sd/-
**DR. A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

Sd/-
**EASWARAN S.**
**JUDGE**

mns

**APPENDIX OF OT.REV 7/2025**

**PETITIONER ANNEXURES**

| | |
|---|---|
| **Annexure A** | **TRUE COPY OF THE ASSESSMENT ORDERNO.32020996252/2014-15 DATED 27.01.2021** |
| **Annexure B** | **TRUE COPY OF THE APPEAL MEMORANDUM FILED BEFORE JOINT COMMISSIONER(APPEAL) KOLLAM. DATED 24/10/2024** |
| **Annexure C** | **TRUE COPY OF THE COMMON ORDER DATED 4.3.2024 IN KVAT(KLM) 48/23 AND CONNECTED CASES** |
| **Annexure D** | **TRUE COPY OF THE APPEAL MEMORANDUM (APPEAL NO.286/2024) FILED BEFORE APPELLATE TRIBUNAL, THIRUVANANTHAPURAM,DATED 18/10/2024** |
| **Annexure E** | **CERTIFIED COPY OF THE ORDER DATED 27.12.2024 IN TA(VAT) 285/2024 OF THE SALES TAX APPELLATE TRIBUNAL, THIRUVANANTHAPURAM.** |

## APPENDIX OF OT.REV 8/2025

**PETITIONER ANNEXURES**

| | |
|---|---|
| **Annexure A** | **TRUE COPY OF THE PENALTY ORDER ISSUED BY STATE GOODS AND SEVICE TAX DEPARTMENT DATED 24.12.2019 ALONG WITH MODIFIED ORDER** |
| **Annexure B** | **TRUE COPY OF THE APPEAL MEMORANDUM,DATED 24/10.2024 FILED BY THE PETITIONER BEFORE THE JOINT COMMISSIONER (APPEALS),KOLLAM** |
| **Annexure C** | **TRUE COPY OF THE COMMON ORDER IN KVAT (KLM) 48/2023 DATED 4.3.2024,OF THE JOINT COMMISSIONER (APEALS) KOLLAM** |
| **Annexure D** | **TRUE COPY OF THE APPEAL MEMORANDUM (APPEAL 289/2024),DATED 18/10/2024** |
| **Annexure E** | **TRUE COPY OF THE COMMON ORDER IN TA(VAT) 285/2024 DATED 27.12.2024,OF THE SALES TAX APPELLATE TRIBUNAL ,TRIVANDRUM.** |

**APPENDIX OF OT.REV 9/2025**

**PETITIONER ANNEXURES**

| | |
|---|---|
| **Annexure A** | **TRUE COPY OF THE ASSESSMENT ORDER OF THE ASSISSTANT COMMISSIONER AND SERVICE TAX DEPARTMENT DATED 27.01.2021** |
| **Annexure B** | **TRUE COPY OF THE APPEAL MEMORANDUM DATED 24/10/2024 FILED BEFORE JOINT COMMISSINER (APPEALS), KOLLAM** |
| **Annexure C** | **TRUE COPY OF THE COMMON ORDER IN KVAT(KLM)48/23 DATED 4.3.2024, OF THE JOINT COMMISSIONER (APPEALS),KOLLAM** |
| **Annexure D** | **TRUE COPY OF THE APPEAL MEMORANDUM (APPEAL 290/24) DATED 18/10/2024 FILED BEFORE APPELLATE TRIBUNAL, TRIVANDRUM.)** |
| **Annexure E** | **TRUE COPY OF THE COMMON ORDER IN TA(VAT) 290/2024 DATED 27/12/2024 ,OF THE SALES TAX APPELLATE TRIBUNAL,TRIVANDRUM.** |

## APPENDIX OF OT.REV 11/2025

**PETITIONER ANNEXURES**

| | |
|---|---|
| **Annexure A** | **TRUE COPY OF THE PENALTY ORDER OF THE STATE GOODS & SERVICE TAX DEPARTMENT,DATED 24.12.2019 ALONG WITH MODIFIED ORDER** |
| **Annexure B** | **TRUE COPY OF THE APPEAL MEMORANDUM DATED 24/10/2024 FILED BEFORE JOINT COMMISSIONER (APPEAL) KOLLAM.** |
| **Annexure C** | **TRUE COPY OF THE COMMON ORDER IN KVAT(KLM)48/23 DATED 4.3.2024 ,OF THE JOINT COMMISSIONER (APPEALS) KOLLAM** |
| **Annexure D** | **TRUE COPY OF THE APPEAL MEMORANDUM(APPEAL 285/2024) DATED 18/10/2024,FILED BEFORE APPELLATE TRIBUNAL TRIVANDRUN.** |
| **Annexure E** | **TRUE COPY OF THE COMMON ORDER IN TA(VAT) 285/24, DATED 27.12.2024 OF THE SALE TAX APPELLATE TRIBUNAL, TRIVANDRUM.** |

## APPENDIX OF OT.REV 12/2025

**PETITIONER ANNEXURES**

| | |
|---|---|
| **Annexure A** | **TRUE COPY OF THE ASSESSMENT ORDER DATED 27.01.2021** |
| **Annexure B** | **TRUE COPY OF THE APPEAL MEMORANDUM** |
| **Annexure C** | **TRUE COPY OF THE COMMON ORDER DATED 4.3.2024** |
| **Annexure D** | **TRUE COPY OF THE APPEAL MEMORANDUM** |
| **Annexure E** | **TRUE COPY OF THE ORDER DATED 27.12.2024** |

## APPENDIX OF OT.REV 6/2025

**PETITIONER ANNEXURES**

| | |
|---|---|
| **Annexure A** | **TRUE COPY OF THE PENALTY ORDER DATED 24.12.2019 ALONG WITH MODIFIED ORDER** |
| **Annexure B** | **TRUE COPY OF THE APPEAL MEMORANDUM** |
| **Annexure C** | **TRUE COPIES OF THE COMMON ORDER DATED 4.3.2024** |
| **Annexure D** | **TRUE COPY OF THE APPEAL MEMORANDUM** |
| **Annexure E** | **TRUE COPY OF THE ORDER DATED 27.12.2024** |