2025:KER:31176

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

WP(C) NO. 3756 OF 2018

PETITIONER:

M.SREENIVASAN
AGED 45 YEARS
S/O. VALAVU M, RESIDING AT SREENIVAS,
AZHOOR, PATHANAMTHITTA-689 645

BY ADV SRI.NAVOD PRASANNAN PATTALI

RESPONDENTS:

1 **UNION OF INDIA**
FINANCE DEPARTMENT, NEW DELHI-110 001,
REPRESENTED BY THE SECRETARY
TO THE GOVERNMENT OF INDIA.

2 **CENTRAL BOARD OF EXCISE AND CUSTOMS SERVICE TAX**
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE,
GOVERNMENT OF INDIA, NEW DELHI-110001

3 **CHIEF COMMISSIONER OF CENTRAL EXCISE**
CUSTOMS & SERVICE TAX, KERALA ZONE, C.R. BUILDING,
I.S.PRESS ROAD, COCHIN-682 018.

4 **COMMISSIONER OF CENTRAL EXCISE**
CUSTOMS & SERVICE TAX, O/O COMMISSIONER OF CENTRAL EXCISE, CUSTOMS & SERVICE TAX, THIRUVANANTHAPURAM-695 001

BY ADV SMT.KEERTHI SOLOMON, CGC
SRI.SREELAL N WARRIER, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10.04.2025, ALONG WITH WP(C).37136/2017, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

2025:KER:31176

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

WP(C) NO. 37136 OF 2017

PETITIONER:

SALIM.N
AGED 32 YEARS
SALIM NIVAS,ILLAM NAGAR, VALATHUNKAL.P.O.,
KOLLAM- 691 011.

BY ADV SRI.NAVOD PRASANNAN PATTALI

RESPONDENTS:

1 **UNION OF INDIA**
FINANCE DEPARTMENT, NEW DELHI-110 001
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA.

2 **CENTRAL BOARD EXCISE AND CUSTOMS SERVICE TAX.**
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA,NEW DELHI-110 001.

3 **CHIEF COMMISSIONER OF CENTRAL EXCISE**
CUSTOMS & SERVICE TAX,KERALA ZONE, C.R.BUILDING, IS PRESS ROAD, COCHIN- 682 018.

4 **COMMISSIONER OF CENTRAL EXCISE**
CUSTOMS & SERVICE TAX,O/O. COMMISSIONER OF CENTRAL EXCISE, CUSTOMS & SERVICE TAX,PRESS CLUB ROAD, LCE BHAVAN,THIRUVANANTHAPURAM- 695 001.

BY ADV SRI.K.SHRI HARI RAO, CGC
SRI.SREELAL N WARRIER, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10.04.2025, ALONG WITH WP(C).3756/2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

MOHAMMED NIAS C.P., J

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WP(C) Nos.3756/2018, 37136/2017

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Dated this the 10th day of April, 2025

J U D G M E N T

These writ petitions are filed seeking a declaration that the sale of lottery tickets does not come within the purview of auxiliary service or taxable service as defined under Section 65 of the Finance Act, 1994, and is consequently not a taxable service within the meaning of Section 65(105) of the Finance Act, 1994.

2. It is submitted by both sides that the issue is covered against the Department by the judgment of the Honourable Supreme Court reported in ***Union of India v. Future Gaming Solutions Pvt. Ltd. [2025 SCC OnLine SC 289]***.

In view of the above, the writ petitions are allowed as prayed for.

Sd/-

MOHAMMED NIAS C.P.

JUDGE

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APPENDIX OF WP(C) 37136/2017

PETITIONER EXHIBITS :

EXHIBIT P1	**TRUE COPY OF THE AGENCY LINCESE ISSUED TO THE PETITIONER FROM THE DISTRICT LOTTERY OFFICER, DLO, KOLLAM**
EXHIBIT P2	**TRUE COPY OF THE SHOW CAUSE NOTICE DATED 16.10.2017 ISSUED BY THE COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS, THIRUVANANTHAPURAM TO THE PETITIONER**
EXHIBIT P3	**TRUE COPY OF THE ORDER DATED 09.12.2012 PASSED BY THE LD. SINGLE JUDGE IN WPC NO.24845/2013**
EXHIBIT P4	**TRUE COPY OF THE ORDER DATED 10.10.2013 IN WPC NO.24845/2013**
EXHIBIT P5	**TRUE COPY OF THE ORDER DATED 14.03.2014 PASSED BY DIVISION BENCH OF THIS HIGH COURT IN WPC NO.24845/2013**
EXHIBIT P6	**TRUE COPY OF THE CIRCULAR DATED 19.5.2015 ISSUED BY THE JOINT SECRETARY(TAX RESEARCH UNIT-1) DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA**

APPENDIX OF WP(C) 3756/2018

PETITIONER EXHIBITS

EXHIBIT P1	**TRUE COPY OF THE AGENCY LICENSE ISSUED TO THE PETITIONER FROM THE DISTRICT LOTTERY OFFICER, DLO, PATHANAMTHITTA**
EXHIBIT P2	**TRUE COPY OF THE SHOW CAUSE NOTICE DATED 18.12.2017 ISSUED BY THE COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS, THIRUVANANTHAPURAM TO THE PETITIONER.**
EXHIBIT P3	**TRUE COPY OF THE ORDER DATED 10.10.2013 PASSED BY THE LD. SINGLE JUDGE IN WP(C) NO. 24845/2013**
EXHIBIT P4	**TRUE COPY OF THE ORDER DATED 9.12.2013 IN WP(C) NO. 24845/2013.**
EXHIBIT P5	**TRUE COPY OF THE ORDER DATED 14.03.2014 PASSED BY DIVISION BENCH OF THIS HIGH COURT IN WP(C) NO. 24845/2013**
EXHIBIT P6	**TRUE COPY OF THE CIRCULAR DATED 19/5/2015 ISSUED BY THE JOINT SECRETARY (TAX RESEARCH UNIT-1) DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA.**

// True Copy //   PA To Judge