2024:KER:21947

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

WEDNESDAY, THE 20TH DAY OF MARCH 2024 / 30TH PHALGUNA, 1945

WA NO. 292 OF 2024

AGAINST THE JUDGMENT DATED 9.2.2024 IN WP(C) NO.1503 OF 2024

OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

ANAND MADHAVAN NAIR INDIRADEVI,
AGED 43 YEARS
PROPRIETOR, M/S. SRI MOOKAMBIKA AGENCIES, AP
16/43, NEAR CASHEW FACTORY,PAZHAKUTTY, NEGUMANGAD,
THIRUVANANTHAPURAM, PIN - 695561

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

RESPONDENTS/RESPONDENTS:

1 THE STATE TAX OFFICER,TAX PAYER CIRCLE,
NEDUMANGAD, THIRUVANANTHAPURAM, PIN - 659002

2 THE COMMISSIONER OF STATE TAX
SGST DEPARTMENT, 8TH FLOOR, TAX TOWERS, KARAMANA
P.O., THIRUVANANTHAPURAM, PIN - 659002

3 THE JOINT COMMISSIONER,
SGST DEPT., FIRST FLOOR, TAX TOWERS, KARAMANA,
THIRUVANANTHAPURAM, PIN - 695002

4 **THE DEPUTY COMMISSIONER OF STATE TAXES, SGST DEPARTMENT, MINI CIVIL STATION, NEYYATTINKARA, PIN - 695121**

5 **CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS, GST POLICY WING, NORTH BLOCK, NEW DELHI, REPRESENTED BY PRINCIPAL COMMISSIONER (GST)., PIN - 110001**

6 **STATE OF KERALA REPRESENTED BY SECRETARY TO GOVERNMENT, TAXES DEPT., GOVT. SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001**

7 **GOODS & SERVICES TAX NETWORK PVT. LTD, EAST WING, 4TH FLOOR, WORLD MARK-1, AEROCITY, NEW DELHI, REPRESENTED BY ITS MANAGING DIRECTOR., PIN - 110037**

BY ADV P.R.SREEJITH,
SR.GOVT.PLEADER SRI.V.K.SHAMSUDHEEN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 20.03.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

Dr. Kauser Edappagath, J.

This writ appeal has been filed challenging the judgment of the learned Single Judge in WP(C) No.1503/2024 dated 9th February 2024.

2. The appellant is a registered assessee under the provisions of the CGST/SGST Act, 2017, on the rolls of the 1st respondent. He is engaged in the supply of telecommunication and courier services.

3. The appellant filed the writ petition challenging Ext.P5 order passed under Section 73 of the CGST/SGST Act. The learned Single Judge disposed the writ petition, relegating the appellant to the statutory remedy of appeal. It is challenging the said judgment; the appellant is before us.

4. We have heard Sri.Harisankar V.Menon, the learned counsel for the appellant and Sri.V.K.Shamsudheen, the learned

Senior Government Pleader.

The 1st respondent issued Ext.P3 show cause notice to the appellant, and the appellant gave Ext.P4 reply before passing Ext.P5 order. Ext.P5 order was passed considering the contentions in Ext.P4 reply. There is no violation of the principles of natural justice. The appellant challenges Ext.P5 on merits. The disputed facts cannot be adjudicated in a writ petition. As rightly held by the learned Single Judge, the remedy open to the appellant is to prefer appeal under Section 107 of the CGST/ SGST Act. We find no merit in the appeal. Accordingly, it is dismissed.

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

Sd/-
DR. KAUSER EDAPPAGATH
JUDGE

Rp