2024:KER:13391

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 15TH DAY OF FEBRUARY 2024 / 26TH MAGHA, 1945

WP(C) NO. 3970 OF 2024

PETITIONER:

SRI. PUTHAPARAMBIL SHEREEF SHANAVAS,
AGED 40 YEARS,
PROPRIETOR, GREAT WOOD PLY AND BOARDS, KOONAM ROAD,
KURUMATHUR, KANNUR DISTRICT, PIN – 670142.

BY ADVS.
SRI. RAJESH NAMBIAR
SRI. SINDHU K. NAMBIAR

RESPONDENTS:

1 STATE TAX OFFICER,
STATE GOODS AND SERVICE TAX DEPARTMENT,
TAX PAYER SERVICE CIRCLE, TALIPARAMBA, PIN – 670141.

2 JOINT COMMISSIONER,
STATE GOODS AND SERVICE TAX DEPARTMENT,
KANNUR, PIN – 670002.

3 STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN – 695001.

BY ADV.
SMT. RESHMITA RAMACHANDRAN – GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

DINESH KUMAR SINGH, J.

W.P.(C) No. 3970 of 2024

Dated this the 15th day of February, 2024

JUDGMENT

1. The present writ petition has been filed seeking quashing of the intimation to the petitioner blocking the input tax credit.

2. The Rule 86A of the GST Rules, 2017 provides the conditions of use of amount available in the electronic credit ledger and empowers the Commissioner or the Officer authorised by him under Sub-Rule (1) to disallow the debit on electronic credit ledger on being satisfied that the conditions for disallowing the debit exist. Rule 86A of the GST Rules, 2017 reads as under;

RULE 86A- Conditions of use of amount available in electronic credit ledger-

> "(1)Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as:
>
> a) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36-

i. issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or

ii. without receipt of goods or services or both; or

b) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36 in respect of any supply, the tax charged in respect of which has not been paid to the Government; or

c) the registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or

d) the registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36, may, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount."

(2) The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.

> (3) Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction."

3. Ms. Reshmita Ramachandran, learned Government Pleader submits that allegations against the petitioner are that the input tax credit has been claimed on the basis of the forged invoices without supply of any goods and services and the competent Officer has reason to believe that the claim for input tax credit is fraudulent claim.

4. This Court does not find that impugned notices/intimation are without jurisdiction or contrary to the law as provided under the GST Act or Rules made thereunder. Therefore, this Court find no ground to interfere with the impugned intimation and notices. Hence this writ petition is hereby dismissed. The adjudication authority is directed to complete the adjudication process expeditiously.

Sd/-
DINESH KUMAR SINGH
JUDGE

Svn

APPENDIX OF WP(C) 3970/2024

PETITIONER'S EXHIBITS

EXHIBIT P1	TRUE COPY OF THE SUMMONS DATED 19.6.2023 ISSUED UNDER SEC.70 OF THE GST ACT
EXHIBIT P2	TRUE COPY OF THE SCREENSHOT OF THE WHATS APP MESSAGE RECEIVED BY THE PETITIONER
EXHIBIT P3	TRUE COPY OF THE BLOCKED CREDIT LEDGERS DATED 30.6.2023
EXHIBIT P4	TRUE COPY OF THE B LOCKED CREDIT LEDGER DATED 3.07.2023
EXHIBIT P5	TRUE COPY OF THE REPLY DATED 4.07.2023
EXHIBIT P6	TRUE COPY OF THE SHOW CAUSE NOTICE DATED 17.10.2023 FOR THE YEAR 2021-22
EXHIBIT P7	TRUE COPY OF THE SHOW CAUSE NOTICE DATED 17.10.2023 FOR THE YEAR 2022-23