2024:KER:2281

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 11TH DAY OF JANUARY 2024 / 21ST POUSHA, 1945

WP(C) NO. 40073 OF 2023

PETITIONER/S:

BIJU.K.P, AGED 46 YEARS
S/O. POULOSE, XIII/418, KUZHIKKATTUSSERY P.O.,
THRISSUR, PIN - 680697

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

RESPONDENT/S:

1 THE ASSISTANT COMMISSIONER,
STATE GOODS AND SERVICES TAX DEPARTMENT, POOTHOLE,
THRISSUR, PIN - 680004

2 STATE TAX OFFICER (WC),
STATE GOODS AND SERVICES TAX DEPARTMENT, POOTHOLE,
THRISSUR, PIN - 680004

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

OTHER PRESENT:

MS.JASMINE M.M.- GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

The petitioner has approached this Court in the present writ petition seeking a writ/direction in the nature of mandamus commanding the 2nd respondent to pass appropriate orders, in accordance with law, on Ext.P4 request for refund of the excess payment of tax made by the petitioner.

2. The petitioner is engaged in execution of various works contracts and is a registered assessee under the provisions of the Central Goods and Services Tax Act/State Goods and Services Tax Act, 2017 ('CGST/SGST Act', for short). It is said that the petitioner's brother-in-law, Sri.Vibin V.C., also is engaged in execution of the works contracts and is also an assessee under the provisions of the CGST/SGST Act. It is submitted that the brother-in-law of the petitioner did not discharge tax liability for the months of January and March, 2018, in the financial year 2017-18, for

an amount of Rs.1,09,292/- and committed default till 26.10.2020. The petitioner wrongly remitted tax dues as against his brother-in-law for the said period amounting to Rs.1,09,292/- on 26.10.2020. His brother-in-law also filed returns for the months of January and March, 2018 and paid the tax amounting to Rs.1,09,292/- on 26.10.2020. In view of the above, the petitioner moved an application before the assessing authority dated 11.12.2020 under Section 54 of the CGST Act claiming refund of the excess tax paid by him. However, the application filed by the petitioner was rejected vide Ext.P1 order stating that it was not filed within the time limit prescribed under Section 54(1) of the said Act, i.e. two years from the relevant date as prescribed for the period. Learned counsel for the petitioner submits that the petitioner moved another application, Ext.P4, dated 9.3.2022 for the same.

3. I do not find any ground to entertain such a writ petition, which has been filed seeking for a

direction to consider order dated 17.12.2020 afresh by filing an application as late as on 9.3.2022.

The writ petition lacks merit and is hereby dismissed. Pending interlocutory application, if any, in the present writ petition stands dismissed.

Sd/-
DINESH KUMAR SINGH
JUDGE

jg

APPENDIX OF WP(C) 40073/2023

PETITIONER EXHIBITS

Exhibit P1	COPY OF DEFICIENCY MEMO IN FORM GST RFD-03 ISSUED BY THE 1ST RESPONDENT DTD. 17-12-2020
Exhibit P2	COPY OF LETTER SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DTD. 31-05-2022
Exhibit P3	COPY OF LETTER SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DTD. 09-01-2023
Exhibit P4	COPY OF LETTER SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DTD. 09-03-2022