

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

Wednesday, the 22nd day of November 2023 / 1st Agrahayana, 1945

WP(C) NO. 32069 OF 2023



PETITIONER:

SALOOM TRADING, KP 17/837, KUTTIES COMPLEX, KONNI POST OFFICE ROAD, KONNI, PATHANAMTHITTA, KERALA, REPRESENTED BY IT'S PROPRIETRESS, SMT.KUNJAMMA ABRAHAM, PIN - 689691.

RESPONDENTS:

1. **THE SUPERINTENDENT, CENTRAL GOODS AND SERVICES TAX, AND CENTRAL EXCISE, PATHANAMTHITTA RANGE, THAZHETHEKKATHIL TOWER, ST. PETERS JN., RING ROAD, PATHANAMTHITTA, PIN - 689645.**
2. **UNION OF INDIA, REPRESENTED BY ITS SECRETARY (REVENUE), MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI, PIN-110001.**
3. **THE CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS, REPRESENTED BY ITS CHAIRMAN, DEPARTMENT OF REVENUE, NORTH BLOCK, NEW DELHI, PIN-110001.**
4. **THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY, TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001.**

Writ Petition (Civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct the first Respondent to keep further action in pursuance of EXT.P.3 and P.5 notices for the year 2018-19 in abeyance till disposal of this Writ Petition.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 10.11.2023 and upon hearing the arguments of M/S. AJI V.DEV, P.G.SATHISH KUMAR, ALAN PRIYADARSHI DEV & S.SAJEEVAN, Advocates for the Petitioner and of SRI. THOMAS MATHEW NELLIMOOTTIL, Advocate for R1 & R3, the court passed the following:



DINESH KUMAR SINGH, J.

WP(C) No. 32069 of 2023

Dated this the 22nd day of November, 2023

ORDER

Sri. Thomas Mathew Nellimoottil, learned Senior Standing Counsel for Central Board of Indirect Taxes & Customs, prays for and is allowed one week time to file affidavit on what basis different treatment is sought to be given to the assessee/dealers who had filed their GSTR-9/9C with delay before 01.04.2023 and those who have filed their GSTR-9/9C between 01.04.2023 to 31.08.2023 as provided in notification issued by the CBIC dated 31.03.2023 for waiver of the amount of late fee referred to in Section 47 of the CGST Act. This Court is of the prima facie view that any person who has filed GSTR 9/9C in respect of the financial years 2017-18, 2018-19, 2019-20, 2020-21, 2021-22 up to 31st August, 2023 should be eligible for the concessional late fee as mentioned

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in the said notification otherwise it would amount to violation of Article 14 of the Constitution of India inasmuch as no intelligible differentia is coming out from the Scheme to differentiate an assessee/dealer who had filed GSTR-9/9C before 1st April, 2023 and an assessee/dealer who has filed GSTR-9/9C in between 1st April, 2023 to 31st August, 2023. This Court is of the view that any assessee/dealer who has filed the returns in GSTR-9/9C in respect of the financial years from 2017-18 to 2021-22 before 31st August, 2023 should be eligible for concessional rate of late fee as prescribed in the said notification.

**Sd/- DINESH KUMAR SINGH
JUDGE**

rpr

APPENDIX OF WP(C) 32069/2023

- Exhibit P1 TRUE COPY OF THE NOTICE ISSUED FOR THE YEAR 2018-19 ASMT -10 DATED 20.02.2023
- Exhibit P2 TRUE COPY OF THE REPLY DATED 16.03.2023 FILED AGAINST EXT.P.1
- Exhibit P3 TRUE COPY OF THE NOTICE ISSUED DEMANDING LATE FEE FOR THE YEAR 2018-19 DATED: 06.06.2023
- Exhibit P4 TRUE COPY OF THE REPLY DATED 14.06.2023 FILED AGAINST EXT.P.3
- Exhibit P5 TRUE COPY OF THE SECOND NOTICE ISSUED DEMANDING LATE FEE FOR THE YEAR 2018-19 DATED 07.09.2023
- Exhibit P6 TRUE COPY OF THE PAGES CONTAINING SECTIONS, 44, 45, 46 & 47 OF THE CGST ACT (WITH UP-TO-DATE AMENDMENTS)
- Exhibit P7 TRUE COPY OF THE PAGES CONTAINING RULE 80 (1) & 80 (3) THE CGST RULES, 2017 (WITH UP-TO-DATE AMENDMENTS)

