



2025:KER:4436

IN THE **HIGH COURT OF KERALA** AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 21<sup>ST</sup> DAY OF JANUARY 2025 / 1ST MAGHA, 1946

**WP(C) NO. 757 OF 2025**

**PETITIONER(S):**

THANGAPANDI SELVARAJ,  
AGED 32 YEARS,  
M/S.BLUE STAR TRADERS,  
13/545/F, KODAKADATH,  
KARAKKAD ROAD, ONGALLUR,  
PALAKKAD, PIN - 679 313.

BY ADVS.  
G.MINI(1748)  
A.KUMAR (SR.)  
P.J.ANILKUMAR  
P.S.SREE PRASAD  
BALASUBRAMANIAM R.

**RESPONDENT(S):**

ENFORCEMENT OFFICER  
ENFORCEMENT SQUAD NO. 1,  
KERALA STATE GOODS AND TAXES DEPARTMENT,  
1ST FLOOR, GST OFFICE COMPLEX ANNEXE,  
BEHIND CIVIL STATION,  
PALAKKAD, PIN - 678 001.

SMT. JASMIN M.M. (GP)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
21.01.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2025:KER:4436

**BECHU KURIAN THOMAS, J.**.....  
**W.P.(C) No.757 of 2025**  
.....**Dated this the 21<sup>st</sup> day of January, 2025****JUDGMENT**

Petitioner is engaged in the wholesale trade of aluminium, copper and brass scraps under the name and style of “Blue Star Traders”, and is a registered tax payer under the CGST/KSGST Act, 2017.

2. Petitioner challenges the communication dated 21.11.2024 refusing to grant an opportunity FOR cross examination of persons whose statements were allegedly utilised by the officer while issuing Ext.P1 show cause notice.
3. Pursuant to a search conducted by the Enforcement Squad No.1 on 23.05.2024, a show cause notice was issued to the petitioner proposing to impose a huge amount as tax as well as penalty. In the show cause notice specific references are made to statements, obtained from two persons by name Mr.Abdul Salam K and Mr.Shajahan K.T. Those statements were utilised by the respondent while proposing to impose tax and penalty as per Ext.P1 show cause notice. Though petitioner filed a reply, subsequently, a request was made as per e-mail communication dated 12.11.2024 for an opportunity to cross examine the two persons from whom statements were taken by the respondent. By Ext.P3 communication the said request was rejected pointing out that the statements were obtained without any coercion or undue influence, and



2025:KER:4436

therefore, no specific reasons arise in the instant case to grant an opportunity for cross examination. The said communication is assailed in this writ petition.

4. I have heard Sri.A.Kumar, the learned Senior Counsel, instructed by Sri.Balasubramaniam R., the learned counsel for the petitioner apart from Smt.Jasmin M.M., the learned Government Pleader.
5. In a recent judgment of this Court in **Nishad K.U. v. The Joint Commissioner, Central Tax and central Excise and Ors.** [(2024) SCC Online Ker: 7328], it was observed that the basic requirement of the rule of law is to grant an opportunity of hearing to the persons against whom proceedings have been initiated. When statements of third parties are relied upon, it is one of the fundamental requirements that the party against whom such statements have been relied upon is granted an opportunity to question the person who gave such statements. This requirement flows from the opportunity of hearing required to be given as per Section 75(4) of the CGST Act. This Court had further observed that unilateral statements behind the back of a person cannot under any circumstances be justified under the rule of law, even if the proceedings are quasi judicial in nature.
6. In the instant case, it is evident that statements of two persons have been used by the respondent to issue show cause notice. Thus, when those statements were proposed to be used against the petitioner, it is a fundamental requirement to grant an opportunity for cross examination. The request of the petitioner as seen from Ext.P2 communication ought to have been allowed by the respondent. Therefore, declining to grant



2025:KER:4436

permission to cross-examine as per Ext.P3 is a contravention of the principles of natural justice which flows from the opportunity of hearing required to be granted under Section 75(4) of the CGST Act. Hence, I am of the view that Ext.P3 is to be set aside and the petitioner be granted an opportunity to cross-examine those persons whose statements are referred to in the show cause notice while continuing the proceedings initiated pursuant to Ext.P1.

7. Accordingly, Ext.P3 communication dated 21.11.2024 is set aside and the respondent shall grant an opportunity to the petitioner to cross examine the persons referred to in Ext.P1 as requested in Ext.P2, as expeditiously as possible, in a time bound manner. Needless to mention, thereafter the proceedings initiated as per Ext.P1 shall be completed without undue delay.

The writ petition is allowed as above.

sd/-  
**BECHU KURIAN THOMAS**  
**JUDGE**

AMV/21/01/2025



2025:KER:4436

APPENDIX OF WP(C) 757/2025

**PETITIONER EXHIBITS**

- EXHIBIT P1** TRUE COPY OF THE SHOW CAUSE NOTICE DATED 24.09.2024 ISSUED BY THE RESPONDENT.
- EXHIBIT P2** TRUE COPY OF THE PETITIONER'S REQUEST DATED 12.11.2024 TO THE RESPONDENT FOR CROSS-EXAMINATION.
- EXHIBIT P3** TRUE COPY OF THE COMMUNICATION DATED 21.11.2024 ISSUED BY THE RESPONDENT REJECTING PETITIONER'S REQUEST FOR CROSS-EXAMINATION.
- EXHIBIT P4** TRUE COPY OF THE JUDGMENT IN W.P.(C) NO.26732/2024 DATED 17.12.2024