IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

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THE HONOURABLE MR.JUSTICE BASANT BALAJI

WEDNESDAY, THE 19TH DAY OF AUGUST 2026 / 28TH SRAVANA, 1948

WA NO. 1617 OF 2026

JUDGMENT DATED 30.07.2026 IN WP(C) NO.24744 OF 2026 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER IN WPC:

M/S. FELLAH GLOBAL COMMERCE
D.NO.6/ 153 A, ADUVASSERY, THADIKAKADA JUNCTION,
NEDUMBASSERY, ERNAKULAM, REPRESENTED BY ITS MANAGING
PARTNER, PIN - 683578

BY ADVS.
SRI.MOHAMMED RAFIQ
SHRI.V.K.SHAMSUDHEEN
SMT.M.M.JASMIN
SRM.RESMITHA.R.CHANDRAN

RESPONDENT/S:

1 THE ASSISTANT ENFORCEMENT OFFICER
ENFOREEMENT SQUAD NO.2, STATE GST, DEPARTMENT OF
KERALA, PALAKKAD, PIN - 678001

2 REPRESENTED BY ITS SECRETARY (TAXES)
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN -
695001

SRI. P M RAFEEK-GP

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 19.08.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Devan Ramachandran, J

The appellant challenges the judgment of the learned Single Judge, asserting the initiation of action against them under Section 130 of the Central Goods and Services Tax Act, 2017 ('Act' for short), is illegal and unlawful. They impute that the learned Single Judge, however, did not evaluate this contention properly; to thus permit further action to continue, thus constraining them to approach this Court.

2. Sri.Mohammed Rafiq – learned counsel for the appellant, argued that the only allegation against his client is that the vehicle and the consignment covered by the Invoice and the E-Way Bill, which was originally assigned to a consignee in Nedumbassery, was found in a route which is not normal, namely at Poriyani, Mundur. He showed us that, in Ext.P6, this has been clearly explained by his client; but that the same has not been adverted to by the competent Authorities, thus illegally proceeding to action under Section 130 of the "Act". He prayed that the impugned judgment be, therefore, set aside.

3. Sri.P.M.Rafiq – learned Senior Government Pleader, in response, submitted that, as evident from Ext.P6 itself, the appellant unequivocally

admits that the goods were diverted "to another registered dealer in Kerala" (sic), but without a fresh Tax Invoice, or E-Way Bill, being generated. He submitted that, in such circumstances, an action under Section 130 of the "Act" becomes inevitable.

4. We have evaluated the rival submissions of the parties on the touchstone on the various materials, particularly the judgment of the learned Single Judge.

5. The facts are not in dispute because, Ext.P6 unequivocally admits that: *"during the course of transit, owing to commercial requirements, the consignor (the appellant herein) decided to divert the goods to another registered dealer in Kerala"* (sic). They then maintain that *"such changes in consignee or destination during transit are part of the normal course of business and are lawfully effected by generating a fresh tax invoice and a fresh e-way bill before the actual delivery of the goods."* (sic)

6. The afore establishes that the appellant is fully aware of the statutory and legal consequences of the vehicle or the consignment being seen in an area which is away from the normal route of its travel.

7. However, the appellant explains further in Ext.P6, that "*immediately upon receiving the request for diversion of the goods, the consignor instructed the driver to halt the vehicle and await further*

instructions until the fresh tax invoice and e-way bill could be generated" (sic).

8. Obviously, the attempt of the appellant is to show that the "diversion" was not intended to take place, until a fresh E-Way Bill and a fresh Invoice had been generated.

9. But, the interception of the vehicle was not in the normal route, but away from it, at a place called Mundur. Interestingly, the explanation to this by the appellant is that the driver took the new route, but was then directed to wait at Mundur, which he did from 11 p.m. on 13.07.2026, until 9.43 a.m om 14.07.2026, within which time it was intercepted.

10. Apart from the fact that Sri.P.M.Rafiq – learned Senior Government Pleader asserts that Ext.P6 was never given to the Assistant Enforcement Officer, as has been asserted, it is also unnecessary to say that it contains certain statements which will have to be corroborated and proved by the appellant cogently.

11. Their statement, that they directed the driver to wait at a particular place for the purpose of creating a fresh Invoice and an E-Way Bill has not been substantiated or proved as of now; but certainly, they will obtain a chance of doing so, while proceedings under Section 130 of the "Act" is taken forward.

12. In conspectus, the argument, that Section 130 of the "Act" does

not apply, do not appeal to us at this stage; though the remedy of the appellant to seek release under its ambit, is always open to him.

13. Needless to say, we cannot find the impugned judgment to be in error; and consequently dismiss this appeal, but with the afore liberty as also any other, as per law, being reserved to the appellant.

It goes without saying that our observations herein cannot be construed to be an affirmative conclusion against the appellant; and that all their contentions - both legal and factual - are fully entitled to them to pursue while the statutory proceedings are proceeded against them.

Sd/-

DEVAN RAMACHANDRAN
JUDGE

Sd/-

BASANT BALAJI
JUDGE

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