IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MR.JUSTICE P. V. BALAKRISHNAN

THURSDAY, THE 6TH DAY OF AUGUST 2026 / 15TH SRAVANA, 1948

WA NO. 1505 OF 2026

AGAINST THE JUDGMENT DATED 10.07.2026 IN WP(C) NO.23184 OF 2026 OF HIGH COURT OF KERALA

APPELLANT:

ABDULLATHEEF PALLITHODUVIL, AGED 56 YEARS
PROP: M/S. HARSHIN ENTERPRISES, IX/ 419K, POONTHALA BUILDING, PAN BAZAR, TIRUR,MALAPPURAM, RESIDING AT PALLITHODUVIL, CHERIYAMUNDAM, MALAPPURAM, PIN - 676103

SHRI.K.N.SREEKUMARAN
SRI.P.J.ANILKUMAR (A-1768)
SRI.N.SANTHOSHKUMAR
SHRI.A.KUMAR (SR.)

RESPONDENTS:

1 DEPUTY COMMISSIONER,
STATE GOODS & SERVICES TAX DEPARTMENT, 3RD FLOOR, MINI CIVIL STATION TIRUR, MALAPPURAM, PIN - 676101

2 COMMISSIONER OF STATE TAXES,
STATE GOODS & SERVICE TAX DEPARTMENT, TAX TOWER ,KARAMANA, TRIVANDRUM, PIN - 695002

SRI SHAIJ RAJ T K - SR GP

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 06.08.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Devan Ramachandran, J.

The challenge in this matter is against Ext.P7 order of the Deputy Commissioner, State Goods and Services Tax Department, issued under the provisions of Section 74(1) of the KGST Act.

2. The learned Single Judge has relegated the appellant to invoke alternative remedy; and they assail the same on various grounds.

3. Sri.A.Kumar, learned senior counsel, instructed by Sri.P.J.Anilkumar – appearing for the appellant, contended that Ext.P7 is inept in law because, though it finds no culpability on his client's side, it still mulcts them with liability on the ground that the registration of the supplier – who is stated to be outside Kerala – has been found to be fake or fraudulent. He argued that, when the *sine qua non* for initiation of action under Section 74(1) of the KGST Act has not been attracted, Ext.P7 can only be seen to be a null and void order, thus amenable to challenge before this Court, under Article 226 of the Constitution of India.

4. Sri.Shaij Raj – learned Government Pleader, refuted the afore submissions, saying that Ext.P7 clearly records that the

transaction between the appellant and the supplier – who is in Amritsar, were apocryphal; and that there was no supply of goods from the latter to the former. He contended that, when the sales tax registration of the alleged supplier was fake or cancelled, the passing of Input Tax Credit by them to the appellant is ineluctably fraudulent, and hence the latter being liable to action under Section 74(1) of the KGST Act. He prayed that this appeal be dismissed; pointing out that all which the learned Single Judge has done, is to direct them to invoke their alternative remedies.

5. It is well settled, without requirement for restatement or expatiation, that, even when there is statutory alternative remedy available, a writ petition would become maintainable if the order impugned is null and void, or issued without jurisdiction. What we have to verify in this case is whether Ext.P7 order would satisfy the afore criteria.

6. The submissions of Sri.A.Kumar, learned senior counsel, are specific that his client's reply had not been properly adverted to and that if it had been done, then the Authority would not have been able to fix any culpability on them. The contra-assertion is that Ext.P7 finds that the passing of Input Tax Credit

to the appellant by the supplier in Amritsar, even when they did not have a registration, or when their registration was fake – which has been proved through Pan - India Investigation by the Department – the former would also have to be found equally liable.

7. We are afraid that we cannot find full favour with the submissions of the learned Government Pleader or with Ext.P7 as it is presently worded, for the singular reason, that the specific contention of the appellant - that they were not aware of the credentials of the supplier and that they had acted *bona fide* by making a valid transaction through the Bank - has not been adverted to or considered. Further, even when the appellant maintains that the supply of goods had taken place – in answer to the allegation to the contrary in Ext.P5 show cause notice - that aspect has also not been specifically dealt with by the Deputy Commissioner in Ext.P7.

8. Obviously, we are persuaded to hold Ext.P7 to be illegal; and therefore, that the writ petition was maintainable.

9. In such circumstances, and for the reasons above, we become enjoined to intervene, which we do as below.

10. We allow this appeal and set aside the impugned judgment, as also Ext.P7; with a consequential direction to the Deputy Commissioner, Taxpayer Services Division, Tirur, to reconsider the matter, after adverting specifically to the reply caused by the appellant; thus culminating in an appropriate fresh order as per law without any avoidable delay.

We, however, clarify that we have not entered into the merits of any rival contentions and that observations herein are meant only to guide us to the decision we have taken and are not an affirmative statement on any of the issues in controversy.

Sd/- DEVAN RAMACHANDRAN
JUDGE

Sd/- P. V. BALAKRISHNAN
JUDGE

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