CNR : KLHC010760222023

2026:KER:71109

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2026 / 25TH BHADRA, 1948

WP(C) NO. 33958 OF 2023

PETITIONER:

THE STATE TAX OFFICER (IB) II,
STATE GOODS AND SERVICE TAX DEPARTMENT,
KERALA, KOZHIKKODE, PIN - 673006.

BY ADV.
SMT.HARIMA HARIHARAN, GOVERNMENT PLEADER.

RESPONDENT:

M/S. EMERALD JEWEL INDUSTRY INDIA LTD.,
THRISSUR, X/362/18, ABI TOWER, NEW CHURCH ROAD,
RICE BAZAR, THRISSUR, PIN-680001. [CORRECTED]

[AS PER ORDER DATED 29.02.2024 IN I.A-1/2024 IN WP(C) NO.33958/2023, THE ADDRESS OF RESPONDENT IS CORRECTED AS: "M/S. EMERALD JEWEL INDUSTRY INDIA LIMITED, CORPORATE & REGD. OFFICE, 230, THIRUVENKATASWAMY ROAD (EAST), R.S. PURAM, COIMBATORE-641002.]

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

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16.09.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

The respondent herein was faced with Section 129 proceedings under the Central Goods and Services Tax Act, 2017 (CGST Act) / State Goods and Services Tax Act, 2017 (SGST Act), against which, an appeal was presented before the First Appellate Authority. The First Appellate Authority, pursuant to Ext.P5 order, found that the transaction in question was actually an interstate stock transfer and, therefore, following the principles laid down by this Court in W.P.(C) No.31328 of 2017 dated 04.10.2017, held that the imposition of penalty was illegal. The writ petition has been presented seeking to challenge Ext.P5, presumably because, an Appellate Tribunal under Section 112 of the CGST Act had not been constituted at that point of time.

2. Heard Smt.Harima Hariharan, the learned Government Pleader for the petitioner, as well as Sri.A.Kumar, the learned Senior Counsel, instructed by Sri.Satyajith Warrier, the learned counsel for the respondent herein.

3. It is brought to the notice of this Court by the learned Government Pleader that, as of now, the Tribunal has been constituted and, hence, the petitioner may be permitted to move the Tribunal by presenting a second appeal in accordance with law.

4. However, Sri.Kumar, the learned Senior Counsel, brought to the notice of this Court that the judgment relied on by the First Appellate Authority has since been followed by other Benches, holding that a detention with respect to an Integrated Goods and Services Tax (IGST) transaction would not be effected with reference to the provisions of the CGST/SGST Acts, without there being an appropriate amendment to the IGST statute and also by issuing appropriate notifications in accordance with law.

5. Though such a contention is raised, this Court notices that, as against Ext.P5 order, there is a remedy provided under the provisions of Section 112 of the CGST Act. Insofar as a Tribunal has since been constituted, this Court is of the opinion that the petitioner herein is to be permitted to present a further

second appeal in accordance with law.

In such circumstances, this writ petition would stand disposed of, permitting the petitioner to present a second appeal under Section 112 of the CGST Act. If such an appeal is being presented within a period of six weeks from today, the same requires to be considered as one filed within time and disposed of on merits.

Sd/-

HARISANKAR V. MENON
JUDGE

anm

APPENDIX OF WP(C) NO. 33958 OF 2023

PETITIONER'S EXHIBITS

Exhibit P1	**A TRUE COPY OF THE NOTICE NO. OR1/KGST/2017-18 DATED 11.10.2017.**
Exhibit P2	**A TRUE COPY OF THE SHOWCAUSE NOTICE NO. SCN NO. 1/2017 DATED 11.10.2017.**
Exhibit P3	**A TRUE COPY OF THE ORDER NO.OR1/KGST/2017-18 DATED 27.10.2017.**
Exhibit P4	**A TRUE COPY OF THE ORDER NO.IB II E/38/17-18/F DATED 07.11.2017.**
Exhibit P5	**A TRUE COPY OF THE APPELLATE ORDER DATED 05.01.2023 OF THE APPELLATE AUTHORITY.**
Exhibit P6	**A TRUE COPY OF THE REPORT OBTAINED THROUGH E-WAY BILL SYSTEM WITH RESPECT TO E-WAY BILL NO.171001735625.**
Exhibit P7	**A TRUE COPY OF THE REPORT OBTAINED THROUGH E-WAY BILL SYSTEM WITH RESPECT TO E-WAY BILL NO.151001736578.**