CNR : KLHC010497582018

WP(C) NO. 18171 OF 2018

2026:KER:77281

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

WEDNESDAY, THE 7TH DAY OF OCTOBER 2026 / 15TH ASWINA, 1948

WP(C) NO. 18171 OF 2018

PETITIONER :-

M/S. KITEX LTD
P.B.NO.4., KIZHAKKAMBALAM, ALUVA,
ERNAKULAM DISTRICT, PIN - 683 562,
REPRESENTED BY IT'S DIRECTOR AND AUTHORISED SIGNATORY
DONY DOMINIC.

BY ADV SHRI.BOBBY JOHN

RESPONDENTS :-

1 **THE ASSISTANT STATE TAX OFFICER**
KERALA STATE GST DEPARTMENT,
MATTANCHERY AT PERUMBAVOOR,PIN - 683 547

2 **THE STATE TAX OFFICER**
KERALA STATE GST DEPARTMENT,
MATTANCHERY AT PERUMBAVOOR,PIN - 683 547.

3 **THE COMMISSIONER OF STATE GOODS SERVICE TAX DEPARTMENT**
KERALA, TAX TOWER, KILLIPPALAM,KERAMANA,
THIRUVANANTHAPURAM, PIN - 695 002.

4 **STATE OF KERALA**
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001.

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5 UNION OF INDIA
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
FINANCE DEPARTMENT (REVENUE),
CENTRAL SECRETARIAT,NEW DELHI, PIN - 110 001.

6 THE FEDERAL BANK LTD
REPRESENTED BY ITS BRANCH MANAGER,
KIZHAKKAMBALAM BRANCH, PIN - 683 562.

SMT. HARIMA HARIHARAN -GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07.10.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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JUDGMENT

The above writ petition was filed seeking for the following prayers :-

> (i) To issue a writ in the nature of certiorari or any other appropriate writ or order quashing Exhibit 10 order passed by the 1st respondent;
>
> (ii) To declare that the section 129(3) of the Kerala State Goods and Service Tax Act, 2017 is unconstitutional to the extent it permits adjudication by the same officer who intercepted the goods and issued detention notice alleging defects;
>
> (iii) To declare that the section 129(3) of the Central Goods and Service Tax Act, 2017 is unconstitutional to the extent it permits adjudication by the same officer who intercepted the goods and issued detention notice alleging defects;
>
> (iv) To issue a writ in the nature of mandamus or any other appropriate writ or order directing the 3rd respondent to transfer the proceedings pursuant to Exhibit P4 notice issued by the 1st respondent to another officer of the department for de novo adjudication;
>
> (v) To issue a writ in the nature of mandamus or any other appropriate writ or order directing the 1st respondent to supply the copy of the statement of driver of the vehicle as referred in Exhibit P10 order, to the petitioner

expeditiously;

(vi) To issue a writ in the nature of mandamus or any other appropriate writ or order directing the respondents No.1, 2 and 3 not to invoke Exhibit P7 Bank Guarantee furnished pursuant to Exhibit P4 notice;

(vii) To issue a writ in the nature of mandamus or any other appropriate writ or order directing the 6th respondent not to facilitate the encashment of Exhibit P7 Bank Guarantee furnished pursuant to Exhibit P4 notice, for a period of 6 months.

2. Pursuant to the filing of the writ petition, an interim order was passed on 04.06.2018 directing that the bank guarantee furnished by the petitioner shall not be encashed pending disposal of the writ petition and to keep the bank guarantee alive till the disposal of the writ petition.

3. When the matter was taken up for consideration today, the learned counsel for the petitioner as well as the learned Government Pleader submitted that the writ petition was filed at a time when no statutory authority had been constituted under the State Goods and Services Tax Act. Presently, the statutory appellate authority has been constituted, and the remedy available

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to the petitioner, if aggrieved by Ext.P10 order, is to approach the competent authority by way of appeal.

Accordingly, this writ petition is disposed of, granting liberty to the petitioner to challenge Ext.P10 order before the competent statutory authority, in accordance with law. If the petitioner intends to challenge Ext.P10 order, the same shall be done within a period of one month from the date of receipt of a certified copy of this judgment. Until such time the bank guarantee furnished by the petitioner shall not be encashed.

SD/-

SHOBA ANNAMMA EAPEN
JUDGE

SMA

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APPENDIX OF WP(C) NO. 18171 OF 2018

PETITIONER EXHIBITS

EXHIBIT P1	**TRUE COPY OF THE WORK ORDER DATED 01.12.2017 ISSUED BY THE PETITIONER TO M/S KARIMAN BAG WORKS.**
EXHIBIT P2	**TRUE COPY OF THE PACKING LIST ISSUED BY THE PETITIONER FOR THE CONSIGNMENT.**
EXHIBIT P3	**TRUE COPY OF THE GATE PASS ISSUED BY THE PETITIONER FOR THE CONSIGNMENT.**
EXHIBIT P4	**TRUE COPY OF THE NOTICE DATED 18.1.2018, ISSUED BY THE FIRST RESPONDENT, UNDER SECTION 129(3) OF THE CGST ACT/ SGST ACT DETAINING THE GOODS TRANSPORTED IN VEHICLE NO. KL 07 AC 5296.**
EXHIBIT P5	**TRUE COPY OF THE ORDER DATED 18.1.2018, ISSUED BY THE FIRST RESPONDENT, UNDER SECTION 129(1) OF THE CGST ACT/ SGST ACT DETAINING THE GOODS TRANSPORTED IN VEHICLE NO. KL 07 AC 5296.**
EXHIBIT P6	**TRUE COPY OF THE JUDGMENT DATED 23.1.2018, PASSED BY THIS HONOURABLE COURT, WPC NO. 2334/2018.**
EXHIBIT P7	**TRUE COPY OF THE BANK GUARANTEE NO. 83480, DATED 25.01.2018, FOR AN AMOUNT OF RS.2,52,000.00 ISSUED BY FEDERAL BANK LTD KIZHAKKAMBALAM, FURNISHED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.**
EXHIBIT P8	**TRUE COPY OF THE RELEASE ORDER DATED 25.01.2018, PASSED BY THE FIRST RESPONDENT.**
EXHIBIT P9	**TRUE COPY OF THE OBJECTION DATED 30.01.2018, SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.**
EXHIBIT P10	**TRUE COPY OF THE ORDER DATED 30.01.2018 PASSED BY THE FIRST RESPONDENT UNDER SECTION 129(3) OF THE CGST ACT/SGST ACT.**