



2025:KER:40345

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

MONDAY, THE 9TH DAY OF JUNE 2025 / 19TH JYAISHTA, 1947

WP(C) NO. 9086 OF 2025

PETITIONER/S:

M/S. WINTER WOOD DESIGNERS & CONTRACTORS INDIA PVT.
LTD 50/397, N H ROAD, EDAPPALLY, ERNAKULAM,
REPRESENTED BY ITS FINANCE MANAGER,
SRI. SATHEESH S PAI, PIN - 682024

BY ADVS.
SHRI.K.S.HARIHARAN NAIR
SMT.G.REMADEVI
SMT.HARIMA HARIHARAN
SHRI.RAJATH R NATH
SHRI.DHEERAJ SASIDHARAN

RESPONDENT/S:

- 1 THE STATE TAX OFFICER
WORKS CONTRACT, OFFICE OF THE JOINT COMMISSIONER,
SGST DEPT., SGST COMPLEX,
PERUMANOOR,
ERNAKULAM, PIN - 682015
- 2 THE STATE TAX OFFICER
TAXPAYER SERVICES CIRCLE, EDAPPALLY,
SGST DEPT., CIVIL STATION, KAKKANAD,
PIN - 682030
- 3 THE JOINT COMMISSIONER
OFFICE OF THE JOINT COMMISSIONER OF STATE TAX,
TAXPAYER SERVICES, SGST DEPT,
THEVARA, PERUMANOOR P.O, KOCHI,
PIN - 682015

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4 DEPUTY COMMISSIONER (ARREAR RECOVERY)
OFFICE OF THE JOINT COMMISSIONER, TAXPAYER
SERVICES, ERNAKULAM, PIN - 682015

OTHER PRESENT:

SHRI.ARUN AJAY SANKAR, G.P

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09.06.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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JUDGMENT

The petitioner is a private limited company having registration under the provisions of the Central Goods and Service Tax, Act, 2017/Kerala State Goods and Service Tax Act, 2017. The grievance of the petitioner is against Ext.P14 order, by which the rectification sought by the petitioner, in respect of Ext.P8 order, was rejected on the reason that that petitioner failed to submit the rectification application within the statutory period of six months as contemplated under Section 161 of the GST Act. The facts which lead to the filing of this writ petition are as follows:

Earlier, highlighting certain discrepancies in the assessment pertaining to the financial year 2017-2018, a show cause notice dated 18.10.2021 was served upon the petitioner, to which a reply was submitted by the petitioner in time. As per Ext.P7, the proceedings thereon were finalized under Sections 73 and 74 of the CGST Act, dropping the proceedings proposed, after accepting the explanation offered by the petitioner. However, simultaneously, yet another show cause notice was also issued by yet another officer, pointing out the very same discrepancies, which

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culminated in Ext.P7. The said show cause notice dated 28.09.2023, resulted in Ext.P8 order, wherein the explanation offered by the petitioner was rejected and the proceeding was finalized against the petitioner. Ext.P7, by which the proceedings were dropped is dated 08.12.2023 whereas, Ext.P8 order, which is passed against the petitioner is dated 30.12.2023. Immediately thereafter, the petitioner submitted Ext.P9, before the 2nd respondent who passed Ext.P8 order, highlighting this discrepancy, relating to the duplication of the order. Ext.P9 was submitted on 01.02.2024 by way of an email. Thereafter as there was no response to Ext.P10, representations were submitted in the form of Ext.P12 and P13. Ultimately, the 2nd respondent, passed Ext.P14 order on 27.01.2025, wherein, the 2nd respondent accepted the mistake of duplication but rejected the request placed by the petitioner, on the ground that, as the petitioner did not submit a rectification application by uploading through a GST Portal, within the statutory period of six months as contemplated under Section 161 of the GST Act, no interference could be made.

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It was in these circumstances, this writ petition was submitted, challenging Ext.P8 and P14 orders.

2. I have heard Sri. K.S Hariharan Nair, the learned counsel for the petitioner and Sri.Arun Ajay Sankar, the learned Government Pleader for the State.

3. As mentioned above, the main challenge is against Ext.P14, which is an order rejecting the request placed by the petitioner, highlighting the duplication of the orders as evidenced by Exts.P7 and P8. As far as the conflicting orders, namely Exts.P7 and P8 are concerned, there is no dispute that the points highlighted in the respective show cause notices which culminated in those orders were the same, but the conclusions were different. It is also evident that, Ext.P7, by which the proceedings were dropped accepting the explanation offered by the petitioner, was the first order. Thus, it is a fact that, by the time Ext.P8 order was passed against the petitioner, Ext.P7 was already there, by which the explanation offered by the petitioner was accepted and the proceedings dropped. Therefore the second order could not have been passed. This would lead to an irresistible conclusion that, as

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far as Ext.P8 order is concerned, there is an apparent error on the face of records.

4. When coming to the reasons mentioned in Ext.P14 for rejecting the request of the petitioner, it was only because of the fact that, the rectification application was not filed through the portal within the time limit and therefore, the rectification order in respect of Ext.P8 could not have been passed. However, in Ext.P14, the fact that the petitioner had intimated this aspect by way of email as early as on 01.02.2024 is admitted, which is within the statutory period contemplated under Section 161 of the GST Act. As far as the invocation of the powers under Section 161 of the GST Act is concerned, it is not confined to a situation where, the aggrieved party approaches the authority with an application for rectification. When an error is brought to the notice of the officer concerned or otherwise the officer becomes aware of such error which is apparent on the face of record, the officer concerned can *suo motu* initiate the proceeding of rectification as well.

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5. In this case, as mentioned above, since there is admittedly a duplication of the orders based on two proceedings initiated alleging the same irregularities, there was an error apparent on the face of the records as far as Ext.P8 order is concerned. Therefore, it is a matter which ought to have been rectified as it results in two mutually conflicting orders passed on the same issue by the Officers of the same Department. Ext.P7 being the first order passed, by the officer concerned accepting the explanation offered by the petitioner, the second order namely Ext.P8, which is contrary to the finding in Ext.P7, could not have been passed. Therefore, when such a serious error was clearly pointed out before the competent authority, within the statutory period contemplated under Section 161 for rectification, such authority could not have refrained from invoking the powers of rectification. In view of the fact that, receipt of Ext.P9 is admitted and also that the same is within the statutory time, non invocation of the powers of rectification under Section 161 by the 2nd respondent was not at all proper. Therefore, the reason which

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formed the basis of Ext.P14, by which the request of the petitioner was declined, cannot be said to be legally sustainable.

In such circumstances, this writ petition is disposed of, quashing Exts.P8 and P14, as the adjudication on the discrepancies highlighted in the show cause notices for the assessment year 2017-2018 stood concluded by way of Ext.P7 order.

Sd/-

ZIYAD RAHMAN A.A.
JUDGE

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APPENDIX OF WP(C) 9086/2025

PETITIONER EXHIBITS

| | |
|-------------|--|
| Exhibit P1 | TRUE COPY OF THE INTIMATION NOTICE ISSUED BY THE 1ST RESPONDENT, UPLOADED IN THE GSTN PORTAL ON 08-07-2020 |
| Exhibit P2 | TRUE COPY OF THE NOTICE IN FORM GST DRC-01A DATED 13-11-2020 ISSUED BY THE 1ST RESPONDENT |
| Exhibit P3 | TRUE COPY OF THE SHOW-CAUSE NOTICE DATED 19-04-2021 ISSUED BY THE 1ST RESPONDENT |
| Exhibit P4 | TRUE COPY OF REPLY DATED 11-08-2021 FILED BY THE PETITIONER |
| Exhibit P5 | TRUE COPY OF THE SHOW-CAUSE NOTICE DATED 27-09-2023 ISSUED BY THE 2ND RESPONDENT |
| Exhibit P6 | TRUE COPY OF THE REPLY DATED 13-11-2023 FILED BY THE PETITIONER |
| Exhibit P7 | TRUE COPY OF THE ORDER DATED 08-12-2023 ISSUED BY THE 2ND RESPONDENT |
| Exhibit P8 | TRUE COPY OF THE ORDER DATED 30-12-2023 ISSUED BY THE 2ND RESPONDENT |
| Exhibit P9 | TRUE COPY OF THE RECTIFICATION REQUEST DATED 01-02-2024 FILED BY THE PETITIONER |
| Exhibit P10 | TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 05-07-2024 ISSUED BY THE 4TH RESPONDENT |
| Exhibit P11 | TRUE COPY OF THE REPRESENTATION DATED 22-07-2024 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT |
| Exhibit P12 | TRUE COPY OF THE REPRESENTATION DATED 22-07-2024 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT |
| Exhibit P13 | TRUE COPY OF THE REPRESENTATION DATED 16-12-2024 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT |
| Exhibit P14 | TRUE COPY OF THE RECTIFICATION REJECTION ORDER DATED 27-01-2025 ISSUED BY THE 2ND RESPONDENT |