

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 24TH DAY OF JULY 2020 / 2ND SRAVANA, 1942

WP(C) .No.14275 OF 2020 (H)

PETITIONER:

PAZHAYIDOM FOOD VENTURES (P) LTD.
3/402, VADAKKEDATHU BUILDING, KURICHITHANAM P.O., UZHAVOOR-686
634, REPRESENTED BY ITS DIRECTOR SATHEESH MOHAN.

BY ADV. SRI.PREMJIT NAGENDRAN

RESPONDENTS:

SUPERINTENDENT COMMERCIAL TAXES
(CGST) I CIRCLE, 3RD FLOOR, MARRENA TOWERS, KATTAKKAYAM ROAD,
PALA-686 575.

BY ADV.SRI.SREELAL N WARRIER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24.07.2020,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner is a private limited company registered as a service provider under the Goods and Service Tax Act. In the Writ Petition it is the case of the petitioner that while he intends to pay the arrears of tax due for the assessment year 2018-2019 (November 2018 to March 2019), without contesting the same, the respondents have expressed their inability to permit him to pay the arrears of tax in instalments. It is the further contention of the petitioner that on account of the present Covid pandemic situation, he is not in a position to generate the funds necessary for making a lump sum payment of the admitted tax for the said period, and it is therefore that he seeks a direction from this Court to permit the petitioner to file the returns without paying the entire admitted tax, but ensuring that the payment of admitted tax, together with interest thereon and applicable late fees etc, is made on or before 31st March 2021.

2. The learned Standing counsel for the respondents would point out that the provisions of the Act do not provide for the payment of the admitted amount shown in the return in instalments, and hence the relief sought for by the petitioner cannot be granted in view of the express provisions of the statute.

2. I have heard the learned counsel for the petitioner and the learned Standing counsel for the respondents.

On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I note that the petitioner, who is an assessee under the GST Act, is not disputing his liability to tax, or the quantum thereof, for the period in question. It only seeks an instalment facility to pay the admitted tax, together with interest thereon, in view of the financial difficulties faced by it during the Covid pandemic situation, when its business has come to a total standstill. I also note that during the pendency of this Writ Petition, the petitioner has established its bonafides by effecting a payment of Rs.4 lakhs towards the tax liability for the period 2018-2019. It is also relevant to note that, as of today, there is no demand against the petitioner for the unpaid tax amount. Under the circumstances, since the petitioner is not disputing his liability, and wishes to put a quietus to the matter, I deem it appropriate to direct the respondent to accept the belated return filed by the petitioner for the period November 2018 to March 2019, without insisting on payment of the admitted tax declared therein. The respondents shall adjust the amount of Rs. 4 Lakhs paid by the petitioner during the pendency of this writ petition, towards the admitted tax

liability, and thereafter permit him to discharge the balance tax liability, inclusive of any interest and late fee thereon, in equal successive monthly instalments commencing from 25th August 2020 and culminating on 25th March, 2021. It is made clear that if the petitioner defaults in any single instalment, he will lose the benefit of this judgment and it will be open to the respondent to proceed with recovery proceedings for realisation of the unpaid tax, interest and other amounts.

The Writ Petition is disposed as above.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/24.7.2020

APPENDIX

PETITIONER'S/S EXHIBITS:

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| EXHIBIT P1 | THE TRUE COPY OF THE JUDGMENT OF THIS COURT
IN WP(C) 5665 OF 2020 DATED 8/6/20. |
| EXHIBIT P2 | TRUE COPY OF THE HEARING NOTE FILED BY THE
PETITIONER BEFORE THE RESPONDNET DTED
30/6/20. |
| EXHIBIT P3 | A TRUE COPY OF THE PROCEEDINGS NOTE PREPARED
BY THE RESPONDENT DATED 30/6/20. |

RESPONDENTS EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE