

**IN THE HIGH COURT OF KERALA AT ERNAKULAM****PRESENT****THE HONOURABLE MR. JUSTICE T.R.RAVI****Wednesday, the 15<sup>th</sup> day of February 2023 / 26th Magha, 1944****WP(C) NO. 16008 OF 2022****PETITIONER:**

**KEC INTERNATIONAL LTD., MARY SADANAM KUNNUMMA P.O, MAVELIKKARA  
(REPRESENTED BY SRI. DEEPAK SINGHAL CHIEF MANAGER TAXATION), PIN -  
688562**

**RESPONDENTS:**

- 1. STATE OF KERALA, REPRESENTED BY THE SECRETARY, TAXES (A) DEPARTMENT,  
GOVT OF KERALA, SECRETARIAT, TRIVANDRUM, PIN - 695001**
- 2. STATE TAX OFFICER (WORK CONTRACT) OFFICE OF THE JOINT COMMISSIONER,  
STATE GOODS AND SERVICE TAX DEPARTMENT, KALLUPPALAM, ALAPPUZHA, PIN  
- 688012**
- 3. JOINT COMMISSIONER (APPEALS) STATE GOODS & SERVICE TAX DEPARTMENT  
BAPPUJI NAGAR, ASRAMAM, KOLLAM, PIN - 691002**
- 4. DEPUTY CHIEF ENGINEER TRANSMISSION CIRCLE, KSE BOARD, KOZHIKKODE,  
PIN - 673004**

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay the operation of Ext.P2 order passed by Respondent no.2, in the interest of justice.

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S. JAZIL DEV FERDINANTO & JOSE JACOB, Advocates for the petitioner and of M/S. PUBLIC PROSECUTOR, ADVOCATE GENERAL OFFICE KERALA, R.HARISHANKAR, ADVOCATE GENERAL OFFICE KERALA, Advocates for the Respondents, the court passed the following:

**T.R. RAVI, J.**

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W. P. (C). No. 16008 of 2022  
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Dated this the 15<sup>th</sup> day of February, 2023

**ORDER**

The writ petition has been filed praying to quash Ext.P2 and for direction to the 2<sup>nd</sup> respondent to allow the credit of Rs.78,52,574/- paid by the 4<sup>th</sup> respondent on behalf of the petitioner under Section 10(1) of the KVAT Act.

2. The petitioner had undertaken works on behalf of the Kerala State Electricity Board and payments had been received after deducting the sum of Rs.79,53,497/-.

3. The Electricity Board, which is represented by the 4<sup>th</sup> respondent, Deputy Chief Engineer in this writ petition had remitted the amount to the Government and issued Ext.P6 to the petitioner which shows that the amount had been remitted vide cheque dated 09.04.2015.

4. The case of the petitioner is that, even though the amount has been received by the Government, the petitioner is not given the credit of the tax already paid. The 2<sup>nd</sup> respondent has filed a counter affidavit in which, it is stated that the 4<sup>th</sup> respondent has not given specification in their reply that the amount deducted is remitted in favour of the petitioner or their office at Mumbai.

5. When the case was taken up earlier, this Court had directed the Government Pleader to get specific instruction as to whether the

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amount has come into the coffers of the State. When the case is taken up today, it is submitted that the amount has been received by the State. In such circumstances, the petitioner cannot be put to peril. The petitioner necessarily has to get the benefit of credit of the tax which has already been paid. Since the awarder is the 4<sup>th</sup> respondent, it is for them to clarify the fact of the remittance to the State in order to put the records straight. There will hence be an interim order directing the 4<sup>th</sup> respondent to address the State regarding the manner in which they had remitted the payments to the petitioner, deducted the amount and remitted the same to the Government. Such communication shall be issued within ten days from today. On receipt of the communication, the 2<sup>nd</sup> respondent shall immediately take steps to give credit of such amount to the petitioner within a week from the receipt of the clarification from the 4<sup>th</sup> respondent.

Hand over.

Post the writ petition on 13.03.2023.

Sd/-

**T.R. RAVI  
JUDGE**

**APPENDIX OF WP(C) 16008/2022**

Exhibit P2

**TRUE COPY OF EX-PARTY ORDER DATED 15.11.2021 PASSED BY  
RESPONDENT NO:2**

