



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 25<sup>TH</sup> DAY OF SEPTEMBER 2023 / 3RD ASWINA, 1945

WP(C) NO. 30666 OF 2023

**PETITIONER:**

M/S. ISHA HOLIDAYS (P) LTD.,  
VENNALA, KOCHI, PIN - 682032  
REPRESENTED BY MANAGING DIRECTOR.  
BY ADV.  
SRI. V. C. CHARLY

**RESPONDENTS:**

- 1 THE COMMISSIONER,  
SGST DEPARTMENT, TAX TOWER,  
THIRUVANANTHAPURAM, PIN - 695002.
- 2 THE STATE TAX OFFICER,  
SGST DEPARTMENT, CIRCLE II,  
KALAMASSERI AT KAKKANAD, KOCHI, PIN - 682030.
- 3 JOINT COMMISSIONER(APPEALS),  
SGST DEPARTMENT, ERNAKULAM AT MATTANCHERRY,  
KOCHI, PIN - 682002.
- 4 UNION OF INDIA,  
REPRESENTED BY ITS SECRETARY,  
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE,  
NORTH BLOCK, NEW DELHI, PIN - 110001.

BY ADV.  
SMT. RESHMITA RAMACHANDRAN - GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
25.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



**DINESH KUMAR SINGH, J.**

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**W.P.(C) Nos.30666 of 2023**  
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Dated this the 25<sup>th</sup> day of September, 2023

**JUDGMENT**

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India impugning Exhibit P-1 assessment order passed by the 2<sup>nd</sup> respondent State Tax Officer under Section 73 read with Rule 142 of the Goods and Services Tax and Rules made thereunder for the tax period 2017-18. Total tax, interest and penalty for the said period have been assessed as Rs.4,52,826/- (Rupees Four lakh fifty two thousand eight hundred and twenty six only).

2. Against Exhibit P-1 assessment order dated 25.07.2022, the petitioner approached the department on appeal under Section 107 before the appellate authority. The appeal was filed on 18.03.2023. The appellate authority has dismissed the appeal on the ground that the same was barred by limitation as prescribed under Sub-section (1) read with Sub-section (4) of Section 107 read with Section 4 of the GST Act, 2017. The appeal was filed only on 18.03.2023 and it was in delay of 144 days. The appellate



authority does not have any power to condone the delay in filing the appeal beyond the period of one month from the period of three months as prescribed under Sub-section 1 of Section 107 of the GST Act, 2017. As the petitioner has filed appeal beyond the total period of four months, it has been dismissed on the ground of delay.

3. Learned Counsel for the petitioner is not in a position to point out any powers vested with the appellate authority to condone the delay beyond the period of four months. The appeal has to be filed within a period of three months and the appellate authority has the power to condone the delay by one month if the appellate authority is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within a period of three months.

4. In view of the fact that there is no power vested with the appellate authority to condone the delay beyond three months, this Court finds no grounds to entertain this writ petition and it is hereby dismissed.

**Sd/-**

**DINESH KUMAR SINGH**

**JUDGE**



**APPENDIX OF WP(C) 30666/2023**

**PETITIONER'S EXHIBITS**

EXHIBIT P1 A TRUE COPY OF THE ORDER NO.32AADC11937LIZL/  
DRC-07/2017-18/2022-23 DATED. 25.7.2022  
ISSUED BY THE 2ND RESPONDENT

EXHIBIT P2 A TRUE COPY OF THE ORDER NO. GSTA 112/2023  
DATED 26.7.23 ISSUED BY THE 3RD RESPONDENT

EXHIBIT P3 A TRUE COPY OF THE RELEVANT PAGES OF THE  
KERALA FINANCE ACT 2023