



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

FRIDAY, THE 20TH DAY OF OCTOBER 2023 / 28TH ASWINA, 1945

WP(C) NO. 32372 OF 2023

PETITIONER/S:

THE VATTIYOORKAVU SERVICE CO OPERATIVE BANK
LIMITED.NO.1652, VATTIYOORKAVU.P.O,
THIRUVANANTHAPURAM DISTRICT, REPRESENTED BY ITS
SECRETARY., PIN - 695013

BY ADV O.D.SIVADAS

RESPONDENT/S:

- 1 THE COMMISSIONER OF APPEALS,
CENTRAL TAX, CENTRAL EXCISE AND CUSTOMS, CENTRAL
REVENUE BUILDINGS, I.S. PRESS ROAD, KOCHI., PIN -
682018.
- 2 THE DEPUTY COMMISSIONER OF CENTRAL TAX AND CENTRAL
GST AND CENTRAL EXCISE,
DEPARTMENT OF REVENUE, THIRUVANANTHAPURAM NORTH
DIVISION, GST BHAVAN, THIRUVANANTHAPURAM,, PIN -
695001

SRI.SREELAL WARRIER, SC FOR THE RESPONDENTS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 20.10.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



J U D G M E N T

The present writ petition has been filed for quashing Exts.P1 and P3 orders.

2. Heard the learned counsel for the petitioner and Sri.Sreelal warrier, learned Standing Counsel for the respondents.

3. The petitioner is a Co-operative Society registered under the provisions of Kerala Co-operative Societies Act, 1969 and the Rules framed thereunder. The petitioner was issued notice, which led to order in original issued by the second respondent assessing service tax for a sum of Rs.1,77,801/- and Rs.31,053/- together with educational cess against the petitioner society. The petitioner challenged the said order in original by filing appeal, Ext.P2. The said appeal has been rejected by the Commissioner (Appeals), vide Ext.P3 order, as time barred.

4. Appeal against the impugned order herein can be filed under Section 85 of the Finance Act,



1994, which prescribes limitation of two months. However, the delay of one month can be condoned by the Commissioner (Appeals), as per Section 85(3A) of the Finance Act, 1994. There is no power vested on the Commissioner (Appeals) to condone the delay in filing the appeal beyond the period of one month. Resultantly, the appeal filed by the petitioner was beyond the period of three months, which is the extended period of limitation. Therefore, the appeal has been rightly dismissed on the ground of limitation.

5. This Court in exercise of powers vested under Article 226 of the Constitution of India cannot amend the statute and extend limitation to condone the delay in filing the appeal. Therefore, I find no substance in this writ petition. The impugned order, Ext.P3, does not suffer from any error of law or jurisdiction for this Court to interfere with the same.

The present writ petition fails and is accordingly dismissed. Pending interlocutory



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application, if any, in the writ petition stands dismissed.

Sd/-
DINESH KUMAR SINGH
JUDGE

jg



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APPENDIX OF WP (C) 32372/2023

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE ADJUDICATION ORDER DATED
15.03.2019 ISSUED BY THE 2ND RESPONDENT.
- Exhibit P2 TRUE COPY OF THE STATUTORY APPEAL FILED
BEFORE THE 1ST RESPONDENT DATED 5.07.2019.
- Exhibit P3 TRUE COPY OF THE ORDER DATED 20.04.2023
ISSUED BY THE 1ST RESPONDENT.