



2024:KER:66790

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 3RD DAY OF SEPTEMBER 2024 / 12TH BHADRA, 1946

WP(C) NO. 4601 OF 2024

PETITIONER:

HYNES GLASS HOUSE,
NADUPPURAYIL BUILDING, PEROOR JUNCTION,
TEMPLE ROAD, ETTUMANOOR, KOTTAYAM,
REPRESENTED BY IT'S PROPRIETOR
SRI. G. SHINEKUMAR, PIN - 686 631.

BY ADVS.

AJI V.DEV
ALAN PRIYADARSHI DEV
S.SAJEEVAN

RESPONDENTS:

- 1 THE STATE TAX OFFICER,
STATE G.S.T DEPARTMENT, ETTUMANOOR,
(PRESENTLY REDESIGNATED AS THE STATE TAX OFFICER,
TAXPAYER SERVICES CIRCLE, STATE G.S.T DEPARTMENT,
KOTTAYAM EAST, GST COMPLEX, NAGAMPADOM, KOTTAYAM),
PIN - 686 001.
- 2 THE JOINT COMMISSIONER [APPEALS],
STATE GOODS & SERVICES TAX DEPARTMENT,
PUBLIC LIBRARY BUILDING, SASTRI ROAD, KOTTAYAM, PIN -
686 001.
- 3 THE DEPUTY COMMISSIONER (RECOVERY),
O/O THE JOINT COMMISSIONER, TAXPAYER SERVICES, STATE
G S T DEPARTMENT, COLLECTORATE BUILDING, COLLECTORATE
-P.O, KOTTAYAM, PIN - 686 002.
- 4 THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, TAXES DEPARTMENT,
SECRETARIAT, THIRUVANTHAPURAM, PIN - 695 001.

BY ADV. JASMINE M M (GP)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
03.09.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



JUDGMENT

The petitioner has approached this Court by filing this writ petition on account of the fact that the petitioner is unable to avail the remedy under Section 112 of the Central Goods and Services Tax/State Goods and Services Tax Act, 2017 (CGST/SGST Act) against Ext.P2 Appellate Order. It is the case of the petitioner that 20% of the disputed tax has already been remitted by the petitioner.

2. Heard the learned Government Pleader also.

3. Having heard the learned counsel for the petitioner and the learned Government Pleader and having regard to the fact that payment of 20% of the disputed tax constitutes stay of further recovery in terms of the provisions contained in Section 112(8)(b) of the CGST/SGST Act and considering the fact that the Appellate Tribunal is likely to be constituted soon following directions issued by a Division Bench of this Court, this writ petition will stand disposed of directing that recovery of further amounts from the petitioner in terms of Ext.P1 as confirmed by Ext.P2 order shall remain suspended till any appeal to be filed by the petitioner before the Tribunal is



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disposed of, provided the petitioner files an appeal before the Tribunal within a period of one month from the date on which the Tribunal is constituted. In the light of the above direction, Ext.P3 recovery notice will also stand quashed.

Writ petition is ordered accordingly.

**Sd/-
GOPINATH P.
JUDGE**

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APPENDIX OF WP(C) 4601/2024

PETITIONER'S EXHIBITS

- Exhibit P1** **TRUE COPY OF THE PROCEEDINGS OF
ASSESSMENT PASSED FOR THE YEAR 2017-18
DATED: 24.06.2022.**
- Exhibit P2** **TRUE COPY OF THE APPELLATE ORDER PASSED
BY THE 2ND RESPONDENT FOR THE YEAR
2017-18 DATED: 25.04.2023.**
- Exhibit P3** **TRUE COPY OF THE REVENUE RECOVERY
NOTICE NO. 32DNFPS1282H1ZZ DATED:
28.12.2023 ISSUED BY THE 3RD RESPONDENT
WITH ENGLISH TRANSLATION.**