

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR.JUSTICE S.V.BHATTI**

**&**

**THE HONOURABLE MR.JUSTICE BASANT BALAJI**

**WEDNESDAY, THE 27<sup>TH</sup> DAY OF JULY 2022 / 5TH SRAVANA, 1944**

**WA NO. 1285 OF 2020**

**WP(C) 13647/2020 OF HIGH COURT OF KERALA**

**APPELLANT/S:**

K.U.NIYAS, AGED 33 YEARS  
PROPRIETOR, M/S GOLD WOOD ENTERPRISES, NANGELLIL  
TOWER, P.P. ROAD, PERUMBAVOOR, ERNAKULAM-683 542

BY ADVS.  
K.P.PRADEEP  
SHRI.HAREESH M.R.  
SRI.T.T.BIJU  
SMT.T.THASMI

**RESPONDENT/S:**

- 1 ASSISTANT COMMISSIONER  
STATE GOODS AND SERVICE TAX DEPARTMENT, SPECIAL  
CIRCLE, PERUMBAVOOR-683 542.
- 2 STATE OF KERALA,  
REPRESENTED BY THE SECRETARY , TAXES DEPARTMENT,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001
- 3 THE COMMISSIONER OF STATE TAX,  
STATE GOODS AND SERVICE TAX DEPARTMENT, TAX TOWER,  
KARAMANA P.O, THIRUVANANTHAPURAM-695 002

BY SR G.P., V K SHAMSUDEEN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
27.07.2022, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

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**S.V.BHATTI  
& BASANT BALAJI, JJ.**

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**Writ Appeal No. 1285 OF 2020**  
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JUDGMENT

(Dated this the 27<sup>th</sup> day of July 2022)

Basant Balaji J.,

The petitioner in WP© No.13647 of 2020 has filed this appeal aggrieved by the judgment of the learned Single Judge dated 20.3.2020.

2. The appellant is engaged in the purchase and sale of plywood and is a registered dealer under the Kerala Value Added Tax Act and The Central Sales Tax Act. The case of the appellant is that after having migrated to GST, he had done business only up to the financial year 2017-18.

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3. As the appellant discontinued his business, he filed an online application for cancellation for GST registration on 20.6.2019 with effect from 31.3.2019. Ext.P2 series demand cum recovery notices were received by the appellant on an assessment under Section 62 of CGST/SGST Act for the period from April 2018 to March 2019. He was not issued with the assessment orders and only on receipt of the demand notice, the appellant came to know of the assessment passed against him.

4. A statement was filed by the first respondent wherein it is stated that the assessment orders were uploaded on the web portal on 25.11.2019 and 27.11.2019. As per Section 62 of the Act the assessee had an option to

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file return within 30 days of the receipt of the assessment orders passed, but filed return only within 30 days on receipt of the demand notice following the assessment orders.

5. The learned Single Judge, on a consideration of the entire facts and circumstances of the case, held that the assessment orders were uploaded in common portal of the department and hence, the appellant cannot contend that he was not brought to the notice of the assessment orders passed against him. Taking note of the contention raised by the appellant that he had also filed returns within 30 days on receipt of the demand notice, gave liberty to the appellant to prefer an appeal against the assessment orders

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within a period of 6 weeks time. Until such time the demand notice was directed to be kept in abeyance to enable the appellant to move the appellate authority, to prefer a statutory appeal.

6. The learned single judge has relegated the appellant to avail remedy of statutory appeal available to him and he was given 6 weeks time to move the appellate authority. In view of the matter, we do not find any ground to interfere with the judgment of the learned single judge. But taking note of the circumstances of the case, the appellant is granted one months' time from today to file a statutory appeal before the authority. We also direct that the impugned assessment orders passed by the respondent shall

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be kept in abeyance for one month to enable the appellant to obtain appropriate orders from the appellate authority.

The Writ Appeal stands disposed of as above.

**sd**

**S.V.BHATTI  
JUDGE**

**sd**

**BASANT BALAJI  
JUDGE**

dl