



2024:KER:18649

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

THE HONOURABLE MR. JUSTICE GOPINATH P.

WEDNESDAY, THE 6TH DAY OF MARCH 2024 / 16TH PHALGUNA, 1945

WP(C) NO. 8727 OF 2024

PETITIONER/S:

**GMA PINNACLE AUTOMOTIVES PRIVATE LIMITED,
NH 47, OPPOSITE MUTTOM METRO STATION, THAIKKATTUKARA,
ALUVA, KERALA, REPRESENTED BY ITS DIRECTOR MR. ABDUL
RASHEED ULLATTUTHODIYIL, PIN - 683106
BY ADV AMMU CHARLES**

RESPONDENT/S:

**STATE TAX OFFICER,
STATE GOODS AND SERVICES TAX DEPARTMENT, TAX PAYER
SERVICES CIRCLE, ALUVA, 3RD FLOOR, KAP COMPLEX, RAILWAY
STATION ROAD, ALUVA, PIN - 683101
SMT. JASMINE M.M., GP**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
06.03.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



WP(C) NO. 8727 OF 2024

2

JUDGMENT

The assessment of the petitioner under the Goods and Services Act for the period from July 2017 to March 2018 was completed in terms of Ext.P1 order rejecting the claim of the petitioner for Input Tax Credit to the tune of Rs.5,10,808.68/-.

2. The learned counsel appearing for the petitioner would submit that in terms of Ext.P2 circular dated 27.12.2022, when there is mismatch in GSTR 2A and GSTR 3B, the officer was required to ask the claimant (the petitioner) to produce a certificate from the concerned supplier to the effect that the supplies have actually been made by him and the tax on such supplies has been paid by such supplier in his return in form GSTR 3B. It is submitted that though the assessing officer had not called upon the petitioner to produce documents in support of the claim for Input Tax Credit in terms of the circular dated 27.12.2022, the petitioner sent an e-mail dated 15.12.2023 expressing willingness to produce the documents before the Assessing Authority. It is submitted that without considering the submission made by the petitioner, the claim of the petitioner for Input Tax Credit has been rejected in Ext.P1 assessment order.



WP(C) NO. 8727 OF 2024

3

3. The learned Government Pleader would submit that all the documents produced by the petitioner have been considered while completing the assessment in terms of Ext.P1. However, to a question from the Court as to whether the petitioner had been asked to explain the mismatch between GSTR 3B of the supplier and GSTR 2A filed by the petitioner, it is submitted that there is nothing in Ext.P1 assessment order which would indicate that the petitioner had been called upon to provide its explanation regarding the mismatch.

Having heard the learned counsel for the petitioner and the learned Government Pleader and considering the terms of Ext.P2 circular, I am of the view that Ext.P1 assessment order to the extent it denies Input Tax Credit of Rs.5,10,808.68/- owing to the alleged mismatch between GSTR 2A and GSTR 3B of the supplier will stand set aside. Since Ext.P1 covers other issues also, it is made clear that Ext.P1 is interfered with only to the extent that it denies Input Tax Credit and all other issues as determined by Ext.P1 will continue to operate. Therefore, this writ petition will stand disposed of directing that if the petitioner files an application for rectification of Ext.P1 order to the extent that it denies Input Tax Credit for the sum of



WP(C) NO. 8727 OF 2024

4

Rs.5,10,808.68/- along with documents in support of the claim for Input Tax Credit, the same shall be considered by the respondent and orders shall be passed on the application, in accordance with the law, after affording an opportunity of hearing to the petitioner.

**Sd/-
GOPINATH P.
JUDGE**

DK



WP(C) NO. 8727 OF 2024

5

APPENDIX OF WP(C) 8727/2024**PETITIONER EXHIBITS**

- Exhibit P1** TRUE COPY OF THE ASSESSMENT ORDER DATED 29.12.2023 ISSUED BY THE RESPONDENT
- Exhibit P2** TRUE COPY OF THE CGST CIRCULAR NO 183/15/2022 DATED 27.12.2022
- Exhibit P3** TRUE COPY OF THE EMAIL DATED 15.12.2023 SENT BY THE PETITIONER TO THE RESPONDENT
- Exhibit P4** TRUE COPY OF THE SUPPLIER CERTIFICATE PROVIDED BY THE SUPPLIER GEEYEM MOTORS PVT. LIMITED DATED 05.01.2024
- Exhibit P4(a)** TRUE COPY OF THE SUPPLIER CERTIFICATE PROVIDED BY THE SUPPLIER GREEN BERG HOLIDAY RESORTS (P) LTD. DATED 27.01.2024
- Exhibit P4(b)** TRUE COPY OF THE SUPPLIER CERTIFICATE PROVIDED BY THE SUPPLIER METRO HOSPITALITY SERVICES (P) LTD. DATED 17.01.2024
- Exhibit P4(c)** TRUE COPY OF THE SUPPLIER CERTIFICATE PROVIDED BY THE SUPPLIER FCA INDIA AUTOMOBILES PRIVATE LIMITED DATED 25.01.2024
- Exhibit P4(d)** TRUE COPY OF THE SUPPLIER CERTIFICATE PROVIDED BY THE SUPPLIER HYSON AUTO SALES (P) LTD DATED 10.01.2024
- Exhibit P4(e)** TRUE COPY OF THE SUPPLIER CERTIFICATE PROVIDED BY THE SUPPLIER JMC PNEUMATIC AUTOMATIONS DATED 27.01.2024
- Exhibit P4(f)** TRUE COPY OF THE SUPPLIER CERTIFICATE PROVIDED BY THE SUPPLIER KIZHAKKEDATH AGENCIES DATED 25.01.2024
- Exhibit P4(g)** TRUE COPY OF THE SUPPLIER CERTIFICATE PROVIDED BY THE SUPPLIER MIKHA GRAPHICS DATED 29.01.2024
- Exhibit P4(h)** TRUE COPY OF THE SUPPLIER CERTIFICATE PROVIDED BY THE SUPPLIER UNIVERSAL ASSOCIATES DATED 31.01.2024