

**GOVERNMENT OF KERALA****Abstract**

Revenue Department- Re-conveyance of Bought in Land - judgment of Hon'ble High Court dated 20.11.2024 in WP(C) No.39662/2024 filed by Sri.T.S.Sasi - Complied with - Orders issued.

REVENUE (H) DEPARTMENT

G.O.(Rt)No.1235/2025/RD Dated,Thiruvananthapuram, 23-05-2025

1. Proceedings No. L1-4424/2018 dated 03.09.2018 of the Revenue Divisional Officer, Pala.
Common order of the Hon'ble Value Added Tax/Agricultural Income Tax & Sales Tax Appellate
2. Tribunal Additional Bench, Kottayam dated 30.05.2023 in TA No. 29/2018, 30/2018 & 31/2018 filed by Sri.T. S. Sasi.
- Read 3 Application dated 08.04.2024 & 05.12.2024 filed by Sri. T. S. Sasi, Thoompunkal House, Manjoor (P.O), Kottayam.
- 4 Judgment of Hon'ble High Court dated 20.11.2024 in WP(C) No.39662/2024 filed by Sri.T. S. Sasi.
- 5 Letter No.DCKTM/3884/2024-B1 dated, 04.02.2025 of the District Collector, Kottayam.
- 6 Letter dated, 05.02.2025 from the State GST Officer, Vaikom.

- 7 Letter No.TLKMCL/1403/2024-C5 dated, 04.02.2025 of
Tahsildar, Meenachil.
- 8 Letter No. 49/25 dated, 03.02.2025 from Village Officer,
Kuruvilangadu.
9. Contempt Case (C) No 1044/2025 in Judgment dated,
20.11.2024 in WP(C) No.39662/2024

ORDER

The petitioner filed WP(C)No. 39662/2024 before the Hon'ble High Court of Kerala for directing the respondents 2 to 8 to release the property of the petitioner from all attachments and accept the tax in the name of the petitioner and to consider Ext.P3 and P4 representations within a period of time fixed by the Hon'ble High Cour. The petitioner Sri.T. S. Sasi is the husband of Smt. Iby Sasi, the Proprietor of M/s Aiswarya Agencies , Kuruvilangad, Kottayam registered with the Sales Tax Office, Ettumanoor under KGST Act and CST Act. She was a dealer in Ceramic Tiles and other building materials. In the year 2002-2005 the Intelligence Wing of the Department found out some unearthed interstate purchase of Ceramic tiles by M/s Aiswarya Agencies. The Investigation Officer had charged offences against Smt. Iby Sasi of Aiswarya Agencies alleging that she had failed to keep true and correct accounts and to file annual returns. In order to protect Revenue and as there was strong reasons to believe that the petitioner carrying in business in association with his wife, the Commercial Taxes Officer, Ettumanoor made protective assessment vide proceedings dated 26/12/2011 against Sri. T. S. Sasi, the petitioner under Section 19C of KGST Act. Aggrieved by the said order, the petitioner filed 1st Appeal before the Assistant Commissioner (Appeals)II, State Goods and Service Taxes Department, Kottayam as STA

No.99 to 101 of 2014. As the 1st Appellate authority as per order dated 27/03/2018 confirmed the order of the Assessing authority and dismissed the above Appeal, aggrieved by that order, the petitioner filed 2nd Appeal before the Appellate Tribunal for Kerala Value Added Tax/Agricultural Income Tax & Sales Tax Appellate Tribunal, Additional Bench, Kottayam as TA No.29/2018,30/2018 & 31/2018. During the pendency of the Appeal the respondents attached the property of the petitioner on 15.02.2013 and taken over as Bought in Land on 24/03/2014 and the sale was confirmed by the RDO, Pala as per order read as 1st paper above.

2. As per the Common order read as 2nd paper above the Hon'ble Tribunal allowed the appeals and the orders of the authorities below are set aside and the matter is remitted back to the assessing authority for fresh disposal after issuing notice as contemplated under the proviso to Section 19(C) of the KGST Act to the persons who are concerned with respect to the transactions in respect of which protective assessment initiated against the appellant including the dealer M/s Aiswarya Agencies in whose name registration has been taken and also after providing an opportunity to the appellant to produce all the records which he is relying on and also to cross examine third parties whose statement and data relied on by the assessing authority and to verify the records relating to the business of Aiswarya Agencies and the third party dealers with whom the appellant is stated to have done business transactions and other documents relied on by the assessing authority and after supplying copies of records if so required and there after pass appropriate orders.

3. Based on the above order of Hon'ble Tribunal, the petitioner submitted a representation dated, 22.12.2023 (Ext.P4) before the Tahsildar (LR) Meenachil Taluk and further filed representation dated, 08.04.2024 (Ext.P3) before Government seeking re conveyance of the Bought in Land.

After that, the petitioner filed WP(C)No.39662/2024 before the Hon'ble High Court of Kerala for directing the respondents 2 to 8 to release the property of the petitioner from all attachments and to accept the tax in the name of the petitioner and to consider Ext.P3 and P4 representations within a period of time fixed by the Hon'ble High Court. As per judgment read as 4th paper above, the Hon'ble High Court disposed the Writ petition directing the Principal Secretary, Revenue to consider and pass orders on Ext.P3 also taking note of Ext.P2 (Tribunal Order dated 30.05.2023) order of the Kerala Value Added Tax/Agricultural Income Tax & Sales Tax Appellate Tribunal and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of a certified copy of this judgment.

4. In order to dispose of the Ext.P3 Representation dated 08.04.2024 Government heard the petitioner and his advocate on 05.02.2025 in the presence of Tahsildar, Meencachil, State GST Officer, Vaikom and Village Officer, Kuruvilangad. The petitioner's contention is that as per the Tribunal Order, there is no demand against him. It is also stated that the demands against which recovery proceedings were initiated has been set aside by the competent authority, the petitioner is entitled to get release of the property attached by the Revenue authorities.

5. The demand notice issued by the revenue authorities regarding the RR proceedings has not been quashed or set aside by either the Hon'ble High Court or the Hon'ble Tribunal. The Tribunal set aside only the Assessment order issued by the assessing authority and the 1st Appellate authority, not the Demand Notice issued by the Revenue authorities. Therefore, the auction should not be considered cancelled. The issue to be determined in this case is whether the petitioner is entitled to re-convey the land which was attached and taken as bought in land for the recovery of Sales Tax dues, in the light of Ext.P2 Common Order of the Hon'ble Tribunal dated 30.05.2023.

6. Government have examined the contentions raised by the Petitioner

in Ext.P3 Representation and the documents submitted by the petitioner and reports furnished by the Revenue and the State GST officers at the time of the hearing with the relevant rules and orders in force. It is found that the Common Order issued by the Hon'ble Value Added Tax/Agricultural Income Tax & Sales Tax Appellate Tribunal, Additional Bench, Kottayam dated 30/05/2023 (Ext.P2) in 2nd Appeal in TA No.29/2018,30/2018 & 31/2018 cannot be considered as a final order in the case of Sales Tax Dues. This is a Conditional Remand Order, hence a fresh order has to be issued by the Assessing Authority by following the procedures /guidelines prescribed by the Sales Tax Appellate Tribunal in its Common Order. If the Bought in Land is re conveyed to the defaulter, there is remote chance for producing the required accounts and registers before the Assessing Authority by the defaulter for the issuance of the fresh Assessment Order as directed by the Hon'ble Tribunal. In the light of the Hon'ble Tribunal Order, if there is no demand/Sales Tax arrears against the petitioner, the requisition authority could have requested the revenue authorities to return the requisition since no Sales Tax arrears are pending against the petitioner based on the Hon'ble Tribunal Order. But the State GST Officers have not been made such a request till date. More over, as per report read as 6th paper above, the State GST Officer, Vaikkom have reported that the Bought in Land need not be re conveyed to the defaulter. Hence, the contention of the Petitioner that no demand is existing against him as the Demand as per the assessment order is set aside by the Appellate Tribunal in the common order dated 30.05.2023, is not admissible.

7. As per Kerala Revenue Recovery (Amendment) Act, 2024 the application for re conveyance of Bought in Land received after 5 years from the date of confirmation of sale shall not be considered under any circumstances. As per the above condition, since the application is received

after 5 years from the date of confirmation there is no provision to re convey the Bought in Land to the petitioner as requested by him

8. In the above circumstances, the request put in by the Petitioner Sri. T. S. Sasi, Thoompunkal House, Manjoor (P.O), Kottayam to re-convey the property to an extent of 12 Ares comprised in Block No. 9 in Survey No. 444/8A in Kuruvilangad Village, Meenachil Taluk in Kottayam District, belongs to the petitioner which was attached and made as bought in land on 24/03/2014 from the petitioner, is hereby rejected and Ext.P3 Representation dated 08/04/2024 submitted by the Petitioner before Government is disposed off accordingly.

9. The direction of the Hon'ble High Court in the judgment dated 21/11/2024 in WP(C)No.39662/2024 is thus complied with.

(By order of the Governor)

LATHA S

DEPUTY SECRETARY

To: (1) Sri. T. S. Sasi, Thoompunkal House, Manjoor (P.O),
Kottayam-686 603.

- (2) The Advocate General, Ernakulam, (with C/L)
- (3) The District Collector, Kottayam.
- (4) The Revenue Divisional Officer, Pala.
- (5) The State GST Officer, Vaikom.
- (6) Tahsildar, Meenachil
- (7) Village Officer, Kuruvilangad.
- (8) Web & New Media (I & PR)Department.
- (9) Stock Copy/Office Copy

Forwarded /By order

Section Officer

