



GOVERNMENT OF KERALA

Abstract

Revenue Department-The Judgment of the Hon'ble High Court of Kerala dated 23.09.2024 in WP (C) No.30610/2024 filed by Sri. P.S. Sajimon-Complied with - Orders issued- Reg.

REVENUE(H)DEPARTMENT

G.O.(Rt)No.1244/2025/RD Dated,Thiruvananthapuram, 26-05-2025

1 Proceedings No. D-4067/2013 dated, 29.10.2014 of Revenue Divisional Officer, Pala.

2 Common Order in TA No 15/2018,18/2018 & 20/2018 & TA No 16/2018,17/2018 & 19/2018 dated 21.11.2023 of the Honble Kerala Value Added Tax/Agricultural Income Tax & Sales Tax Appellate Tribunal, Additional Bench, Kottayam.

3 Judgment of the Hon'ble High Court dated 23.09.2024 in WP (C) No.30610/2024 filed by Sri. P.S. Sajimon.

Read 4 The representation, submitted to Government on 14.11.2024 by Sri.P. S. Sajimon, Puthenparambil House, Kallara (P.O), Kottayam - 686 661.

5. Letter No.DCKTM/3608/2024-B1 dated, 03.12.2024 of District Collector, Kottayam.

6. Letter No.G2-625147/2023 dated, 18.12.2024 from the Tahsildar, Vaikom.

7. Letter No.RA37/2002-2005 dated, 16.12.2024 & 26.12.2024 of State Tax Officer, State GST Department, Vaikom.

ORDER

Sri P. S. Sajimon, the petitioner filed a WP (C) No.30610/2024 before the Hon'ble High Court of Kerala praying to release the property which was taken as bought in land by the Government and to refund Rs.5,00,000/- deposited by the petitioner along with 10% interest from the date of deposit from 29.04.2016 till the amount is refunded.

2) The Hon'ble High Court, as per judgment read as 3rd paper above directed as follows:-

"if the petitioner were to make a comprehensive representation before the 2nd respondent, the 2nd respondent shall take a decision in the matter, having due regard to Exts. P3 and P4 orders of the Tribunal and, if necessary, in consultation with the 3rd respondent. The 2nd respondent shall also afford an opportunity of hearing to the petitioner before taking a decision on the representation to be filed. The petitioner shall file a comprehensive representation before the 2nd respondent, who shall take a decision in the matter as directed above within a period of three months from the date on which such representation is submitted by the petitioner. If any amount has been deposited by the petitioner in terms of the demands raised earlier on him, those amounts shall also be refunded to the petitioner."

3) Accordingly, the petitioner filed a representation read as 4th paper above before the Government, requesting to release his property, which was attached and taken as bought land, and to accept the tax in the name of the petitioner, and also requested to refund Rs.5,00,000 /- to the petitioner with 10% interest from the date of deposit till the amount is refunded.

4) As directed by the Hon'ble Court, Government conducted a hearing on 19/12/2024, the representative of the petitioner, Sri. Sasi T. S, the Tahsildar

Vaikkom, Deputy Tahsildar(RR), officials from the office of the District Collector ,Kottayam and the Sales Tax officer ,State GST,Vaikom attended the hearing. At the time of hearing, it is informed that the petitioner had submitted a representation on 14.11.2024, and requested to return the property and to refund the amount.

5). The Sales Tax Officer, Vaikom, as per letter read as 7th paper above reported that Sri P.S. Sajimon had applied for a registration under the KGST and CST Acts on 14-05-2002 in the trade name of Aiswarya Traders at Kuruvilangadu , an appropriate sales turnover of Rs. 900,000/- for the year 2002 was declared in the application. He did not submit required documents before the registering authority hence the Sales Tax Officer had rejected his registration application as per order no. RA 37/2002 dated 19/06/2006. As the dealer has not filed returns for the period, the Sales Tax Officer further completed the assessment under section 17(3) of KGST Act for the year 2002-03, fixing the estimated sales turnover as disclosed in the registration application. The assessment in respect of Sri P.S. Sajimon for the year 2002-03 was completed on 5.02.2007 under KGST Act 1963 and demand created for RS. 1,36,620/-. Smt. Iby Sasi, the sister of the petitioner, had been running a business in the name of Aiswarya Agencies at Kuruvilangadu. The crime files dated 20.2.2007 of the Intelligence officer, Squad no.1, Kottayam, revealed the abetment from the part of Sri.P. S. Sajimon in the Clandestine business activities of Smt. Iby Sasi, in order to evade tax due to Government Exchequer. Hence the Intelligence Officer has imposed penalty under Section 45 A of the KGST Act for Rs. 28,42,880/-, Rs. 17,66,172/- & Rs. 22,23,440/- for the year 2002-03 to 2004-05. Hence the assessment for the year 2002-03 was re-opened and completed under section 19(1) and assessment for the year 2003-04 and 2004-05 were completed under section 17(3) on 26-03-2008. The total demand of Rs. 1,38,71,294/- was

recommended under Revenue Recovery on 25-01-2008 and 09-06-2008.

6) Aggrieved by the orders of Sales Tax Officer , Sri.P.S. Sajimon had filed revision petitions and appeals before the first Appellate authority, and the appeals were rejected by the authority on the ground that the dealer had not paid KLBF @ .5%.

7) Later Sri.Sajimon had filed WP(C) No. 24461/2013 before the Hon'ble High Court, and in the order dated 07/10/2013, the Hon'ble Court had quashed the orders of the Appellate Authority and remitted back to that office for fresh disposal, subject to the condition that the petitioner deposit a further sum of Rs. 5,00,000/- towards dues within one month from 7.10.2013,the sale of the property shall not be confirmed till final orders are passed on the revision petition and the appeals, which shall be disposed of within 3 months if the petitioner pays the dues as directed. But the petitioner did not remit KLBF due in the specified time limit.

8) The Tahsildar, Vaikom , as per the letter read as the 6th paper above reported that the revenue recovery authorities had attached 4.05 ares of property of Sri.Sajimon comprised in Re-survey No. 45/1-1 of Block No. 35 in Kothanelloor Village. During the auction, as there is no sufficient bidders,following all due procedures in the RR Act, Government took the property as bought in land on 26.08.2014 and confirmed the sale as per order read as 1st paper above. As there were no other assets in the name of the petitioner to realize the balance amount, the RRC had returned on 16.11.2015.

9) On 07-04-2016, in IA. 4414/2016 in WP(C) No. 24461/2013 ,the Hon'ble High Court had extended the time limit to remit KLBF due till 30/04/2016. The RR Deputy Tahsildar reported that the petitioner had

deposited Rs.500,000/- in the name of the Sales Tax Officer on 29.04.2016 vide DD number 597575.

10) The appeal filed by the petitioner on 23.12.2016 was also dismissed by the Deputy Commissioner (Appeals) .Against this order the petitioner filed an appeal before the Kerala Value Added Tax/Agricultural Income Tax & Sales Tax Appellate Tribunal, Additional Bench, Kottayam and Hon'ble Tribunal vide orders read as 2nd paper above allowed the appeal and set aside the order of the Assessing Authority .

11) At the time of hearing ,the Sales Tax Officer also informed that on further verification of assessment records, it is found that the sales turnover declared and included by Sri. P.S. Sajimon in the registration application was as per the assessment completed under section 19(1) of the year 2002-03. As he was liable to file returns and pay tax on the declared turnover as per section 17(3) of the KGST Act, the assessment in the absence of returns and accounts completed by adding 10% to the estimated turnover conceded by him is sustainable, and demand there of is liable to him.

12) The District Collector, Kottayam, as per the letter read as the 5th paper above has reported that a requisition was received from the Sales Tax Department towards sales tax dues in respect of Sri. P.S.Sajimon in four files,with a total due amount of Rs. 13,871,294/-. Due to default of payment, an extent of 4.05 ares of property in Re-Survey No. 45/1-1 of Block No. 35 in Kothanelloor Village belonging to the petitioner was attached and taken as bought in land. It is reported that there is no encroachment on the said property, and the market value comes to Rs.130,000/- per cent, and the fair value comes to Rs.23,760/- per Ares. The income from the property towards 2024-25 was remitted to the Government account. There is no property in the name of the petitioner other than his wife's property.

13) In compliance with the Hon'ble High Court Judgment read as 3rd paper above, the Taxes Department has been consulted and requested to take appropriate action regarding the refund of Rs. 500,000/-to the petitioner which was remitted to the Sales Tax Office.

14) Government have examined the request of the petitioner based on the documents submitted by the petitioner and the report furnished by the Revenue officials and the State GST officer and consulted the relevant department. The Taxes Department informed that, though the Hon'ble Tribunal set aside the orders of the appellate authority, the Sales Tax Department re-assessed the liability during the period 2002-2004, as the petitioner was liable to file returns and pay tax on the declared turnover as per section 17(3) of the KGST Act, the assessment in the absence of returns and accounts completed by adding 10% to the estimated turnover conceded by him is sustainable, and demand thereof is liable to him. The Requisition Authority has already filed a Review Petition RP No. 1/2025 dated 17.03.2025, against the Common order of the Hon'ble Tribunal read as 2nd paper above relating to the assessment year 2002-03 before the Appellate Tribunal, Kottayam, and an amount of Rs. 1,36,620/- with interest is outstanding as liability against the petitioner. Hence the Revenue Department is not in a position to re-convey the bought-in land at this juncture , and further action on the request of the petitioner, Sri. P.S.Sajimon to re-convey the bought-in land shall be taken subject to the final outcome of the Review petition filed by the Sales Tax Department .

15) In the above circumstances further action ,on the request of the petitioner, of Sri.P.S.Sajimon, to re convey an extent of 4.05 ares of land in Re-survey No. 45/1-1 of Block No. 35, in Kothanelloor Village in Vaikom Taluk, in Kottayam District,which was attached and taken as bought in land,will be taken subject to the final outcome of the Review petition filed

by the Sales Tax Department against the common order of the Hon'ble Tribunal dated 21.11.2023 and also on receipt of a report from the Requisitioning Authority that no dues are pending against the Petitioner.

16) The representation submitted by the petitioner, Sri. P. S. Sajimon read as 4th paper above is disposed of and the direction of the Honorable High Court in the judgment dated 23.09.2024 in WP (C) No. 30610/2024 is thus complied with .

(By order of the Governor)

SNEHALATHA K

JOINT SECRETARY

To:

- (1). Sri. Sajimon P. S., Puthenparambil House, Kallara (P.O), Kottayam-686661.
- (2) Advocate General, Ernakulam. (with C/L)
- (3) The District Collector, Kottayam
- (4) The Revenue Divisional Officer, Pala.
- (5) The State GST Officer, State GST Department, Vaikom
- (6) The Tahsildar, Vaikom.
- (7) Village Officer, Kothanelloor.
- (8) Web & New Media (I&PR) Department
- (9) Stock Copy/Office Copy.

Forwarded /By order

Section Officer

Copy to: PA to Principal Secretary Revenue.