



2024:KER:52941

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE MR. A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE S.MANU

TUESDAY, THE 9<sup>TH</sup> DAY OF JULY 2024 / 18TH ASHADHA, 1946

WP(C) NO. 12267 OF 2024

PETITIONER :

- 1 CA. P. J. JOHNEY  
AGED 64 YEARS  
CHARTERED ACCOUNTANT,  
JOHNEY & CO CHARTERED ACCOUNTANTS,  
J & CO CHAMBERS, MANIMALA ROAD, EDAPPALLY,  
KOCHI , KERALA, INDIA, PIN - 682024
- 2 MEENAKSHI P.R.,  
AGED 27 YEARS  
GEETHGOVIND, GTWRA -51,  
CHANGAMPUZHA SAMADHI ROAD,  
EDAPPALLY POST, COCHIN,  
KERALA, INDIA, PIN - 682024  
BY ADV K.LATHA

RESPONDENTS:

- 1 THE GST COUNCIL THROUGH IT'S SECRETARY  
5TH FLOOR, TOWER II,  
JEEVAN BHARTI BUILDING JANPATH ROAD,  
CONNAUGHT PLACE, NEW DELHI, PIN - 110001
- 2 UNION OF INDIA  
REPRESENTED BY SECRETARY, DEPARTMENT OF REVENUE,  
MINISTRY OF FINANCE, ROOM NO 46, NORTH BLOCK, NEW  
DELHI, PIN - 110001
- 3 STATE OF KERALA  
REPRESENTED BY CHIEF SECRETARY TO  
THE GOVERNMENT OF KERALA, SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001  
BY SRI.MUHAMMED RAFIQ, SPL.GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
09.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



## **J U D G M E N T**

### **A.Muhamed Mustaque, Acg.C.J.**

This writ petition is filed by the Chartered Accountant seeking the following prayers;

“(i) To issue a Writ of Mandamus or other appropriate Writ, orders or directions, directing the respondents to expeditiously establish the GST Appellate Tribunal in the State of Kerala in accordance with the provisions of Section 112 of the CGST Act 2017 forthwith.

(ii) To issue a Writ of Mandamus or any other appropriate Writ, orders, or directions, directing the respondents to rectify Section 169 of the CGST Act 2017 by correcting the erroneous usage of the word “or” with the correct word “and”, thereby such amendment will mandate assessing officers to serve notices and orders through at least minimum of three alternative modes of service, ensuring compliance with the principles of natural justice and providing an opportunity for affected parties to be heard. And

(iii) To issue such other writ, order, or direction, which this Hon'ble court deems fit and necessary in the interest of justice.”

2. In regard to the first prayer, the learned Senior Government Pleader submits that the steps have already been



taken to establish the GST Appellate Tribunal and the selection process is going on. This submission is recorded.

3. In regard to the second prayer, this Court cannot grant such a relief in the public interest litigation filed by the petitioners. The individual grievance of the person will have to be considered in appropriate manner in an individual litigation to be initiated by such person. Therefore, we decline the second prayer.

4. In the light of the fact that the process has already been initiated to establish the GST Appellate Tribunal, we order that entire selection process shall be completed within a period of four months.

The writ petition is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE,  
ACTING CHIEF JUSTICE**

Sd/-

**S.MANU,  
JUDGE**

APPENDIX OF WP(C) 12267/2024

## PETITIONER EXHIBITS

- Exhibit P1 THE TRUE COPY OF THE GST ORDER NO. 32AAATL5112A4ZF./2017- 2018 DATED 11.12.2023 ISSUED BY THE ASSISTANT STATE TAX OFFICER, TAX PAYER SERVICES CIRCLE, KOCHI AT MATTANCHERY TO ST. JOSEPH HOSPITAL, KANNAMALY, KOCHI, KERALA, 682008
- Exhibit P1A THE TRUE COPY OF THE ORDER UNDER SECTION 73 OF GST ACT DATED 11-12-2023 ISSUED BY THE ASSISTANT STATE TAX OFFICER, TAX PAYER SERVICES CIRCLE, KOCHI AT MATTANCHERY TO ST. JOSEPH HOSPITAL, KANNAMALY, KOCHI, KERALA, 682008
- Exhibit P2 THE TRUE COPY OF THE GST ORDER IN DRC 07 DATED 21.06.2023 ISSUED BY THE ASSISTANT STATE TAX OFFICER, TAX PAYER SERVICES CIRCLE, FORT THIRUVANANTHAPURAM TO HOLY CROSS HOSPITAL, TRIVANDRUM
- Exhibit P2A THE TRUE COPY OF THE ORDER UNDER SECTION 73 OF GST ACT DATED 24/06/2023 ISSUED BY THE ASSISTANT STATE TAX OFFICER, TAX PAYER SERVICES CIRCLE, FORT THIRUVANANTHAPURAM TO HOLY CROSS HOSPITAL, TRIVANDRUM