



2025:KER:39945

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

THURSDAY, THE 5TH DAY OF JUNE 2025 / 15TH JYASHTA, 1947

WP(C) NO. 19789 OF 2025

PETITIONER/S:

NIKHIL AYYAPPAN,
AGED 27 YEARS
S/O. AYYAPPAN, RESIDING AT CHOTTUKOOTTAM HOUSE,
THAVALAPPARA, MANJAPRA, ERNAKULAM,
PIN - 683581

BY ADVS.
SRI.SALIM V.S.
SHRI.K.MUHAMMED THOYYIB
SMT.A.M.FOUSHI
SHRI.A.B.AJIN

RESPONDENT/S:

- 1 STATE OF KERALA,
REPRESENTED BY IT'S SECRETARY (TAXES),
DEPARTMENT OF FINANCE,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 ENFORCEMENT OFFICER,
PATTAMBI ENFORCEMENT SQUAD,
KERALA STATE GOODS AND SERVICES TAX DEPARTMENT,
GST OFFICE COMPLEX ANNEX, PATTAMBI,
PALAKKAD, PIN - 678001
- 3 JOINT COMMISSIONER (APPEALS),
KERALA STATE GOODS AND SERVICES TAX
DEPARTMENT, GOODS AND SERVICE TAX COMPLEX,
POOTHOLE, TTHRISUR, PIN - 680004



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OTHER PRESENT:

MUHAMMED RAFIQ, SPL.G.P

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 05.06.2025, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**



JUDGMENT

The petitioner is a taxpayer under the provisions of the CGST/KSGST Act and Rules. The grievance of the petitioner is against Ext.P8 confiscation order passed by the 2nd respondent, under Section 130 of the GST Act. The facts which led to the filing of this writ petition are as follows:

As part of the business of the petitioner, the petitioner dispatched certain scrap materials through a conveyance bearing registration No.KL-52Q 8144. During transit, the said vehicle was intercepted by the 2nd respondent on 09.10.2024 at 03.40 hours, at Koonathara, Palakkad. As certain irregularities were found, the proceedings under Section 130 of the GST Act were initiated, and ultimately the same resulted in Ext.P8 confiscation order. In the said order, the fine in lieu of confiscation of goods was determined as Rs.10,82,539/- under CGST Act and Rs.10,82,539/- under KSGST Act. In the said order it was also ordered that the goods confiscated shall be released to the supplier with the option of payment of penalty and fine in lieu of confiscation within a period not exceeding



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three months. As against Ext.P8, the petitioner has already submitted an appeal, and Ext.P9 is the acknowledgment for submission of the appeal. In the meantime, the petitioner was served with Ext.P10 notice wherein, it was intimated that unless the petitioner furnishes an order of stay, the vehicle will be sold in auction. It was in these circumstances the petitioner approached this Court seeking the following reliefs.

- "I. Issue a Writ of Certiorari or any other appropriate writ, order, or direction quashing Exhibit P10 as illegal, arbitrary, and unsustainable in law.
- II. Issue a Writ of Mandamus or any other appropriate writ, order, or direction commanding the second respondent to forthwith release the vehicle bearing Registration No. KL-52Q 8144 and the goods forming the subject matter of Exhibits P3, P8, and P10.
- III. Grant such other and further reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. Heard, Sri.V.S Salim, the learned counsel for the petitioner and Sri.Mohammed Rafiq, the learned Senior Government Pleader for the respondents.



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3. The only question that arises for consideration is whether, is it proper for this Court to order release the goods already confiscated under Section 130 of the GST Act, pending consideration of the appeal. The learned Senior Government Pleader pointed out that, as far as the statutory stipulations contained in Section 130 is concerned, it does not contemplate for release of the goods confiscated otherwise than in the manner contemplated under Section 130 (2) or 130 (7) of the CGST Act. As far as Sub Section 7 of Section 130 of the CGST Act is concerned, it contemplates for a three-month period as a reasonable time, to provide an opportunity to the person concerned to get the confiscated goods released, upon payment of fine in lieu of confiscation.

4. Of course it is true that as per Ext.P8, the said option has already been granted to the petitioner, but the period stipulated therein is already expired. However, it is submitted by the learned Senior Government Pleader that, the goods are not sold so far. In such circumstances, as the goods are not reportedly sold, I do not find any reason to deny the opportunity



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to the petitioner to avail the option of getting the goods released, by making the payment of fine in lieu of the confiscation as mentioned in Ext.P8 order. Such an exercise would not cause any prejudice to the State as well.

In such circumstances, this writ petition is disposed of, directing the 2nd respondent to release the goods which are the subject matter of Ext.P8 order, upon the petitioner paying the fine in lieu of confiscation. The payment shall be done within an outer limit of one month, and upon making the payment, the goods shall be released immediately.

Sd/-

ZIYAD RAHMAN A.A.
JUDGE

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APPENDIX OF WP(C) 19789/2025

PETITIONER EXHIBITS

Exhibit P1	THE TRUE COPY OF THE REGISTRATION CERTIFICATE DATED 03.07.2024 ISSUED BY THE GOODS AND SERVICE TAX DEPARTMENT, GOVERNMENT OF INDIA
Exhibit P2	THE TRUE COPY OF THE INVOICE DATED 08-10-2024 FOR A TOTAL INVOICE AMOUNT OF RS. 31,15,601/-INCLUDING GST.
Exhibit P3	THE TRUE COPY OF THE FORM GST MOV/10 DATED 30-10-2024 SERVED TO THE PETITIONER
Exhibit P4	TRUE COPY OF THE REPLY DATED 06.11.2024 SUBMITTED BY THE PETITIONER
Exhibit P5	THE TRUE COPY OF THE INVOICE SHOWING THE PURCHASE OF THE SCRAP METALS BY THE PETITIONER FROM AROMETRIC ENTERPRISES, MUVATTUPUZHA DATED 08-10-2024.
Exhibit P6	THE TRUE COPY OF THE E-WAY BILL DATED 09-10-2024
Exhibit P7	TRUE COPY OF THE ORDER DATED 21.01.2025 ISSUED BY THE ASSISTANT COMMISSIONER, TAXPAYER SERVICES CIRCLE, PATTAMBI
Exhibit P8	TRUE COPY OF THE FORM GST MOV/11 DATED 16-11-2024 SERVED TO THE PETITIONER
Exhibit P9	TRUE COPY OF THE ACKNOWLEDGEMENT DATED 18.03.2025 ISSUED BY APPELLATE AUTHORITY, JOINT COMMISSIONER (APPEALS), THRISSUR FOR SUBMISSION OF THE PHYSICAL COPY OF APPEAL
Exhibit P10	THE TRUE COPY OF THE NOTICE DATED 03-05-2025 SERVED TO THE PETITIONER