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WPC.No.17324/25

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

**PRESENT**

**THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.**

**WEDNESDAY, THE 5<sup>TH</sup> DAY OF NOVEMBER 2025 / 14TH KARTHIKA,**

**1947**

**WP(C) NO. 17324 OF 2025**

**PETITIONER:**

**M/S.RIDHA POLYMERS,  
599, VI, DEVELOPMENT AREA, EDAYAR, BINANIPURAM,  
ERNAKULAM, KERALA REPRESENTED THROUGH ITS  
MANAGING PARTNER SRI. RIYAS M. H.,  
PIN - 683 502.**

**BY ADVS.**

**SRI.P.N.DAMODARAN NAMBOODIRI  
SHRI. HRITHWIK D. NAMBOOTHIRI  
SHRI.A.KUMAR (SR.)**

**RESPONDENTS:**

- 1 STATE OF KERALA,  
REPRESENTED BY ITS SECRETARY, TAXES DEPARTMENT,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,  
PIN - 695 001.**
- 2 JOINT COMMISSIONER,  
TAXPAYER SERVICES CIRCLE, STATE GOODS AND  
SERVICES TAX DEPARTMENT, KAP COMPLEX, RAILWAY  
STATION ROAD, ALUVA, KOCHI, PIN - 683 101.**
- 3 STATE TAX OFFICER,  
O/O.STATE TAX OFFICER, TAX PAYER SERVICES CIRCLE  
- NORTH PARAVUR CIRCLE, STATE GOODS AND SERVICE  
TAX DEPARTMENT, NEAR MINI CIVIL STATION, NORTH  
PARAVUR, ERANAKULAM, PIN - 683 513.**



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4 M/S.B K SALES CORPORATION,  
JOHANS BUILDING, DOOR NO. 18/2339, EMN THACHO  
ROAD, NEAR ANJALI KALYAN MANDAPAM, THOPPUMPADY,  
COCHIN REPRESENTED THROUGH AUTHORIZED SIGNATORY,  
PIN - 682 005.

BY ADV SMT.PREETHA S.NAIR  
ADV ARUN AJAY SHANKAR- GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 05.11.2025, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:



## **JUDGMENT**

The petitioner, who is a registered dealer under the provisions of the CGST/KSGST Act, has approached this Court, being aggrieved by Ext.P5 Order-in-original, passed under Section 74 of the CGST/KSGST Act, 2017. The dispute is in respect of the assessment year 2017-2018, and the petitioner was earlier served with Ext.P2 show cause notice dated 05.08.2024. Even though the petitioner submitted Ext.P3 written explanation to the said show cause notice, the same culminated in Ext.P5 wherein, the objections raised by the petitioner were rejected, and the order was passed rejecting the input tax credit claimed by the petitioner. This writ petition is filed challenging the same, on the ground that the petitioner was not given proper opportunity for hearing.

2. According to the petitioner, when the authorized representative of the petitioner appeared for hearing, in response to the notice served upon the petitioner, the 3<sup>rd</sup> respondent directed the authorized representative to appear and make the submission before his clerk named Mukesh. Thereafter, the order was passed as if, the petitioner was heard



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by the 3<sup>rd</sup> respondent. Apart from the above, it was also contended that, in Ext.P3 show cause notice, the reasons mentioned for invocation of Section 74 were very vague, and the specific reasons which prompted the 3<sup>rd</sup> respondent to invoke the said provision for declining the input tax credit, were not furnished to the petitioner, through the show cause notice.

3. A counter affidavit is filed by the 3<sup>rd</sup> respondent taking note of the contentions raised by the petitioner and opposing the reliefs sought for. In answer to the contention of the petitioner regarding the denial of opportunity for hearing, it is averred in the counter affidavit that, when the authorized representative of the petitioner appeared for hearing, he was directed to appear before one Mr.Mukesh, the Assistant State Tax Officer, for verification of the documents and invoices. Thereafter the 3<sup>rd</sup> respondent heard the petitioner. Thus, the 3<sup>rd</sup> respondent denied specific contentions.

4. Heard Sri.A.Kumar, the Senior counsel, assisted by P.N.Damodanran Namboothiri, the learned counsel for the



petitioner and Sri.Arun Ajay Shankar, the learned Government Pleader.

5. As mentioned above, one of the specific grounds raised is that, the petitioner was not afforded a proper opportunity. According to him when the authorized representative appeared before the 3<sup>rd</sup> respondent, he was directed to appear before another officer, and thereafter the order was passed by the 3<sup>rd</sup> respondent considering that the matter had been heard.

6. Thus, the learned counsel for the petitioner contends that there is violation of the principles of natural justice. To substantiate the contention of the petitioner, an affidavit sworn by the authorized representative of the petitioner is produced as Ext.P4. In the said affidavit, the said authorized representative, who is a Cost Accountant, has specifically asserted that on 30.01.2025, he appeared before the State Tax Officer in compliance of the directions from the office for a personal hearing. When he appeared before the officer, he was directed to appear before the personal staff/clerk named Sri.Mukesh. The personal staff/clerk sought



the client details and took the file for marking attendance. In the affidavit, it is asserted that a proper hearing was not effected and instead, a subordinate officer in the office of the 3<sup>rd</sup> respondent simply collected the files and obtained the details of the client. On going through the counter affidavit of the 3<sup>rd</sup> respondent, the fact that the authorized representative was directed to appear before the subordinate officer of the 3<sup>rd</sup> respondent is admitted, but it is explained therein that, it was only for the purpose of verifying the documents produced. It is also asserted that, the authorized representative was heard by the 3<sup>rd</sup> respondent.

7. However, after considering all the relevant aspects, I am of the view that, when a professional, swears an affidavit before this Court highlighting the matters that transpired during the course of hearing, the same cannot be simply ignored, particularly in a situation where, to some extent, there is an admission forthcoming from the part of the 3<sup>rd</sup> respondent with regard to the matters referred to in the said affidavit. Therefore, I am of the view that the petitioner can be granted one more opportunity for being heard.



8. While taking this view, I have also considered the fact that, one of the specific contentions raised by the petitioner is that, the reasons mentioned in Ext.P2 show cause notice for invocation of Section 74 of the CGST Act are very vague. I find some force in the said contention. Going by the recitals in Ext.P2, it can be seen that, even though in Clause (II) of the show cause notice the brief facts of the case are mentioned and the details of the transaction in respect of which the discrepancy was alleged was referred to, the further details in respect of the same are not revealed. However, in Ext.P5 order, in paragraph No.6, the details of the allegations are specifically highlighted. According to the petitioner, had these details been furnished in the show cause notice itself, they could have contested the matter more effectively, by producing the documents to substantiate their contentions. On going through the contents of Ext.P2 and the reasons mentioned in Ext.P5, I am of the view that, the said contention of the petitioner cannot be simply ignored. Thus, in the light of the violation of principles of natural justice as referred to above, in connection with failure to extend a proper hearing



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and also in the light of the vagueness in Ext.P2 show cause notice, the matter requires reconsideration.

In such circumstances, this writ petition is disposed of quashing Ext.P5, with a direction to the 3<sup>rd</sup> respondent, to reconsider the matter after giving the petitioner an opportunity for being heard. It shall be open to the petitioner to produce additional documents, in respect of the matters referred to in Ext.P5 order. Fresh order, as directed above, shall be passed within a period of three months from the date of receipt of a copy of this judgment.

**Sd/-**

**ZIYAD RAHMAN A.A.**

**JUDGE**

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**APPENDIX OF WP(C) 17324/2025**

**PETITIONER EXHIBITS**

- Exhibit P1** TRUE COPY OF THE INVOICE DATED 18.08.2017 NO.G/CHN/010/17-18.
- Exhibit P2** TRUE COPY OF THE SHOW-CAUSE NOTICE DATED 05.08.2024 NO.ZD320824006242W FOR THE A.Y. 2017-18.
- Exhibit P3** TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER DATED 14.11.2024 .
- Exhibit P4** ORIGINAL AFFIDAVIT OF THE AR DATED 23.04.2025.
- Exhibit P5** TRUE COPY OF THE ORDER DATED 04.02.2025 BEARING NO. TPS/ALV /CNPVR/2025/204-STO ISSUED BY THE 3RD RESPONDENT .
- Exhibit P6** TRUE COPY OF THE LETTER DATED 07.04.2025 ISSUED BY M/S. B K CORPORATION, DELHI .