



2026:KER:20736

WP(C) No.9108 of 2026

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

MONDAY, THE 9TH DAY OF MARCH 2026 / 18TH PHALGUNA, 1947

WP(C) NO. 9108 OF 2026

PETITIONER/S:

**KERALA STATE SELF-FINANCING B.PHARM COLLEGE MANAGEMENT
ASSOCIATION (KSSBCMA)
AL SHIFA HOSPITAL COMPLEX, POST BOX NO.26, OOTTY ROAD,
PERINTHALMANNA, MALAPPURAM. REPRESENTED BY ITS
SECRETARY RAJITHAN EPB,S/O, BALAKRISHNAN, ERANEZHATH
PADINATTAYIL HOUSE, CHERKKARA, THALIKKIULAM P. O,
THRISSUR, PIN - 679322**

**BY ADVS.
SMT.AMMU CHARLES
SRI.K.SRIKUMAR (SR.)**

RESPONDENT/S:

**INTELLIGENCE OFFICER
INTELLIGENCE UNIT, KANHANGAD STATE GST DEPARTMENT,
KERALA KASARAGOD DISTRICT, PIN - 671315**

OTHER PRESENT:

SHRI.ARUN AJAY SHANKAR, G.P

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09.03.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



J U D G M E N T

The petitioner is an association constituted by the managements of 36 Self-financing Pharmacy Colleges in Kerala, which is registered under the Societies Registration Act. According to the petitioner, it conducts a separate selection procedure for admission to Pharmacy courses in the member colleges, except for NRI seats and seats that may be set apart for allotment by the State and by the individual member colleges.

2. The challenge in this writ petition is raised against Ext.P1 Show Cause Notice under Sec.63 of the CGST/KGST Act, proposing to assess the petitioner to tax and to impose penalty. The challenge raised by the petitioner against Ext.P1 notice is mainly on two grounds. Firstly, it is contended that, the same is a composite notice issued for multiple assessment years and hence not legally sustainable. Secondly, it is contended that, going by the language used in Ext.P1, the respondent came to a conclusive finding that, the petitioner is an institution that is liable to get registration under the provisions of the Act, whereas, the specific case of the petition is that, taking note of the nature of the services rendered by the petitioner, it is exempt from the purview of the CGST Act and by virtue of entry 66 (b) (iv) of the Notification No. 12/20174, being a service relating to admission to, or conduct of examination.



Thus, the specific case of the petitioner is that, the preliminary question that has to be considered by the authority is whether, the petitioner is liable to take registration under the Act and only thereafter, the question as to whether the petitioner is to be assessed or not, is to be considered. However in Ext.P1, the respondent had already arrived at a conclusion that, the petitioner is liable to take registration under the Act and is also liable to pay the tax and penalty, as proposed in Ext.P1.

3. I have heard Sri. K.Sreekumar, the learned Senior counsel appearing for the petitioner and Sri. Arun Ajay Shankar, the learned Government Pleader for the respondents.

4. The learned Senior counsel appearing for the petitioner vehemently contended that, the manner in which the proposals are made in Ext.P1, is with a pre-conceived notion that the petitioner is required to be registered under the provisions of the Act, even though, by virtue of entry 66 (b) (iv) of the Notification No. 12/20174, they are not liable to take the registration and therefore, exigible for tax.

5. On the other hand, the learned Government Pleader submits that, as far as the said issue is concerned, the same will be decided after going through the documents to be furnished and examining the nature of the service rendered by the petitioner. It is also submitted by the learned Government Pleader that, the question as



to the requirement of registration would be decided by the adjudicating authority, and not by the 2nd respondent herein. Therefore, the learned Government Pleader opposes the reliefs sought in this writ petition.

6. After carefully going through the records and hearing the contentions raised from both sides, I find that, some interference is required in Ext.P1, particularly because, the show cause notice is a composite notice issued for multiple assessment years, which was found to be not legally sustainable by a Division Bench of this Court in ***Joint Commissioner (Intelligence & Enforcement) v. M/s. Lakshmi Mobiles Accessories [2025 KHC OnLine 149] and Tharayil Medicals v. Deputy Commissioner, Audit Division - IV [2025 VIL 356 KER] W.A.No. 627/2025.*** Therefore, to that extent, an interference is required.

7. When it comes to the question regarding the requirement of registration for the petitioner, it is a matter to be enquired into by the competent officer in this regard after examining the nature of the services rendered by the petitioner. Of course, it is true that, going by the language used in Ext.P1, one can get an impression that, the same is issued with a pre-conceived notion that, the services of the petitioner are compulsorily registerable under the Act.



8. The learned senior counsel for the petitioner placed reliance upon the decision rendered by the Hon'ble Supreme Court in ***Oryx Fisheries Private Limited v. Union of India [2011 (266) E.L.T 422 (SC)]*** where it was observed that,

“.....while reading a show-cause notice the person who is subject to it must get an impression that he will get an effective opportunity to rebut the allegations contained in the show cause notice and prove his innocence. If on a reasonable reading of a show-cause notice a person of ordinary prudence gets the feeling that his reply to the show cause notice will be an empty ceremony and he will merely knock his head against the impenetrable wall of prejudged opinion, such a show cause notice does not commence a fair procedure especially when it is issued in a quasi- judicial proceeding under a statutory regulation which promises to give the person proceeded against a reasonable opportunity of defence.”

9. I am of the view that, going by the language used in Ext.P1, the aforesaid observations have some relevance. As rightly pointed out by the learned senior counsel for the petitioner, it gives a clear impression that, the question as to the requirement of the registration of the petitioner is already decided in Ext.P1, which is not a permissible course in a show cause notice. What is required in a show cause notice is a proposal from the part of the authorities, based on the impression created in the mind of the



authority from the documents available on record. A final conclusion as to the said proposals can only be made, after meticulously going through the documents to be produced by the party subjected to the proceedings and also considering the objections raised by such person, against such proposal. Therefore, the show cause notices issued to the parties should conform to the said requirement.

10. It is true that, in this case, as rightly pointed out by the learned senior counsel appearing for the petitioner, Ext.P1 is not worded in that manner, and impression that is created are with regard to the conclusion arrived at by the said authorities with respect to the question of requirement of registration and the tax/penalty to be imposed upon the petitioner.

11. However, I am of the view that, since I have already decided to set aside Ext.P1, being a composite notice, further observations in this regard are not necessary, as this Court expects that, when fresh show cause notices are issued, the same will be taken care of by the competent authority.

12. In such circumstances this writ petition is disposed of, granting liberty to the respondent herein or the competent authority to issue separate show cause notices for the relevant assessment years, taking note of the observations made by the



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Hon'ble Supreme Court in **Oryx Fisheries** (*Supra*) and this Court. The learned senior counsel appearing for the petitioner also pointed out that, the direction in Ext.P1 to the petitioner was to appear before the said officer, whereas, as per Ext.P2 circular, the adjudication has to be done by the Officer belonging to the respective jurisdictional assessment vertical. In such circumstances, it is further directed that, the proceedings shall be finalized by strictly following Ext.P2 circular and an order shall be passed, after proper scrutiny of the documents produced by the petitioner and also after meticulously examining the contentions raised by the petitioner.

Sd/-

**ZIYAD RAHMAN A.A.
JUDGE**

SM/09.03



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APPENDIX OF WP(C) NO. 9108 OF 2026

PETITIONER EXHIBITS

Exhibit P1 TRUE COPY OF THE SHOW CAUSE NOTICE NO. SCN/INT/KSD/UKND/2026/01-IO DATED 09.02.2026 ISSUED BY THE RESPONDENT

Exhibit P2 TRUE COPY OF THE CIRCULAR NO. 6/2021 [F. NO.CT/7533/2021-C1] (KERALA) DATED 07.11.2021

RESPONDENTS' EXHIBITS:NIL

TRUE COPY

P.A.TO JUDGE