CNR : KLHC011162222024

2026:KER:56473

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

MONDAY, THE 27TH DAY OF JULY 2026 / 5TH SRAVANA, 1948

WA NO. 850 OF 2024

JUDGMENT DATED 13.11.2023

ARISING FROM : WP(C) NO.19432 OF 2021

APPELLANT/PETITIONER:

GAIAGEN TECHNOLOGIES PRIVATE LIMITED,
(EARLIER KNOWN AS PEST CONTROL INDIA PRIVATE LIMITED HAVING CORPORATE OFFICE AT 6TH FLOOR, JAGDAMBA HOUSE, PERU BAUG, GOREGAON EAST, MUMBAI - 400 063 REPRESENTED BY GENERAL MANAGER MR. AMOGH AIDOOR, AGED 32 YEARS, RESIDING AT SHREE VIDYADHIRAJ CHS, PLOT 235/8, SECTOR 3, CHARKOP, KANDIVALI WEST, MUMBAI, PIN - 400067

BY ADVS. SHRI. RIJO DOMY
SHRI.RISHAB S.
ADV BHARATH RAI CHANDANI,
ADV HARE KRISHNA

RESPONDENTS/RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY THE SECRETARY, TAXES (A) DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT, TRIVANDRUM, PIN - 695001

2 ASSISTANT COMMISSIONER

SPECIAL CIRCLE -1, SGST COMPLEX, PERUMANOOR P.O., ERNAKULAM, KOCHI, PIN - 682015

3 KERALA VALUE ADDED TAX APPELLATE TRIBUNAL REPRESENTED BY THE REGISTRAR, 6TH FLOOR, SGST DEPARTMENT COMPLEX, THEVARA, KOCHI, PIN - 682015

4 UNION OF INDIA, REPRESENTED BY SECRETARY, MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, NORTH BLOCK, NEW DELHI, PIN - 110001

5 COMMISSIONER OF CENTRAL TAX AND CENTRAL EXCISE COCHIN COMMISSIONERATE, CENTRAL REVENUE BUILDING, I.S. PRESS ROAD, KOCHI, PIN - 682018

6 STATE TAX OFFICER (WORKS CONTRACT), JOINT COMMISSIONER STATE GOODS AND SERVICE TAX DEPARTMENT, SGST COMPLEX, PERUMANOOR, ERNAKULAM, PIN - 682015

7 DEPUTY COMMISSIONER SPECIAL CIRCLE 1 STATE GST DEPARTMENT, ERNAKULAM, PIN - 682015

BY ADVS.
SMT.THANUJA ROSHAN
SMT.SANJANA R.NAIR
SPL GP SRI. SUDHISH KUMAR

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 27.07.2026, ALONG WITH WA.1566/2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

MONDAY, THE 27TH DAY OF JULY 2026 / 5TH SRAVANA, 1948

WA NO. 1566 OF 2024

JUDGMENT DATED 13.11.2023

ARISING FROM : WP(C) NO.8448 OF 2021

APPELLANT/PETITIONER:

GAIAGEN TECHNOLOGIES PRIVATE LIMITED
(EARLIER KNOWN AS PEST CONTROL INDIA PRIVATE
LIMITED) HAVING CORPORATE OFFICE AT 5TH FLOOR,
JAGDAMBA HOUSE, PERU BAUG, GOREGAON EAST,
MUMBAI - 400 063
REPRESENTED BY ASSISTANT GENERAL MANAGER
MR.AMOGH PRADEEP AIDOOR, AGED 29 YEARS, 23,
SH VIDYADHIRAJ, PLOT 235/8, SECTORS 3, CHARKOP,
KANDIVLI WEST, MUMBAI - 400 067. NEW ADDRESS
(EARLIER KNOWN AS PEST CONTROL INDIA PRIVATE
LIMITED HAVING CORPORATE OFFICE AT 6TH FLOOR,
JAGDAMBA HOUSE, PERU BAUG, GOREGAON EAST,
MUMBAI - 400 063 REPRESENTED BY GENERAL MANAGER
MR. AMOGH AIDOOR, AGED 32 YEARS,
RESIDING AT SHREE VIDYADHIRAJ CHS, PLOT 235/8,
SECTOR 3, CHARKOP, KANDIVALI WEST,
MUMBAI - 400 067.

BY ADVS. SHRI. RIJO DOMY
SHRI.RISHAB S.
ADV BHARATH RAI CHANDANI,
ADV HARE KRISHNA

RESPONDENTS/RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY THE SECRETARY,
TAXES(A) DEPARTMENT, GOVT. OF KERALA,
SECRETARIAT, TRIVANDRUM - 695 001.

2 ASSISTANT COMMISSIONER
SPECIAL CIRCLE-1, SGST COMPLEX,
PERUMANOOR P.O., ERNAKULAM,
KOCHI - 682 015.

3 THE REGISTRAR
KERALA VALUE ADDED TAX APPELLATE TRIBUNAL,
6TH FLOOR, SGST DEPARTMENT COMPLEX,
THEVARA, KOCHI, PIN - 682015

4 UNION OF INDIA
REPRESENTED BY SECRETARY,
MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE,
NORTH BLOCK, NEW DELHI, PIN - 110001

5 COMMISSIONER OF CENTRAL TAX AND CENTRAL EXCISE
COCHIN COMMISSIONERATE, CENTRAL REVENUE BUILDING,
I.S. PRESS ROAD, KOCHI, PIN - 682018

6 DEPUTY COMMISSIONER (REFUND) OF CGST,
MUMBAI WEST, 1ST FLOOR, SHREE MAHAVIR JAIN
VIDYALAYA, C.D. BARFIWALA MARG, JUHU LANE,
ANDHERI (WEST), MUMBAI 400058.

7 STATE TAX OFFICER (WORKS CONTRACT),
JOINT COMMISSIONER,
STATE GOODS AND SERVICE TAX DEPARTMENT,

SGST COMPLEX, PERUMANOOR,
ERNAKULAM-682 015.

8 DEPUTY COMMISSIONER, SPECIAL CIRCLE 1,
STATE GST DEPARTMENT,
ERNAKULAM-682 018, PIN - 682015

BY ADVS.
SMT.SANJANA R.NAIR
SHRI.SUVIN R.MENON, SENIOR PANEL COUNSEL
SPL GP SRI. SUDHISH KUMAR

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 27.07.2026, ALONG WITH WA.850/2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

[WA Nos.850/2024, 1566/2024]

Devan Ramachandran, J.

The challenge in these Appeals travels along a small compass - namely, whether the learned Single Judge was right in concluding that the Service Tax already paid by the appellant cannot be either adjusted, or refunded, in the event that the contract in question is evaluated by the Assessing Authority to be a Works Contract, and not a Service Contract.

2. In our firm view, the aforesaid question need not have engaged the attention of the learned Single Judge, particularly when the matter had been relegated to the Assessing Authority to verify, *inter alia*, the contract and to ascertain whether it was a Works Contract or a Service Contract, based on which alone, the incidence and nature of

tax liable would become clear.

3. The primary argument of the assessee before the learned Single Judge was that the 'Service Tax' and 'Value Added Tax' are mutually exclusive and cannot be imposed at the same time. Perhaps, as a matter of abundant caution, the assessee adscititiously took a contention that, if the Assessing Officer were to find that Value Added Tax is to be imposed, then the same may be adjusted against the Service Tax already paid by them, or that the same be refunded to them.

4. We notice that the learned Single Judge, after relegating the matter, as said above, virtually concluded that there could be no adjustment, or refund, of the Service Tax already paid. As indited above, this conclusion was not necessary; and was, in fact, premature. This is more so because, such declaration obtains a

speculative element, since it is the nature of the contract that will determine whether one tax or the other is leviable or payable.

5. In fact, Sri.Bharat Raichandani, instructed by Sri.Hare Krishna - appearing for the appellant; as also Sri.Sudhish Kumar - learned Special Government Pleader (Taxes), conceded that the question of adjustment or refund of the Service Tax already paid by the assessee could have been left open to be decided by the appropriate Authority, after the Assessing Authority completes the exercise as ordered in the judgment - namely, to decide if the contract in question is a Works Contract, or a Service Contract.

6. We have little doubt that the above submissions of the parties on the afore issue are apposite.

In the afore circumstances, we allow these

Appeals, however, only in part; and thus vacate the findings of the learned Single Judge on the question whether Service Tax already remitted by the assessee can be refunded or adjusted in future, depending upon the decision to be taken by the Assessing Authority in terms of the remand made to him, *qua* the contract in question.

Needless to say, all such issues will be available to the parties to litigate and pursue, after the Assessing Authority takes a view in terms of the impugned judgment.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

Sd/-

BASANT BALAJI

JUDGE

akv