



2026:KER:75858

WP(C) NO. 30354 of 2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM**PRESENT****THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.****WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2026 / 8TH ASWINA, 1948****WP(C) NO. 30354 OF 2024****PETITIONER/S:**

**THE ALLEPPEY COMPANY LTD.,
TAC HOUSE, NORTH VADAI CANAL ROAD, ALAPPUZHA,
KERALA, REPRESENTED BY ITS MANAGING DIRECTOR, MR. ASHOK
VENUGOPAL, PIN - 688007**

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

RESPONDENT/S:

- 1 ASSISTANT COMMISSIONER,
CENTRAL TAX AND CENTRAL EXCISE, AUDIT CIRCLE III
KOTTAYAM, 3RD FLOOR, JOYEES ARCADE, YMCA ROAD,
KOTTAYAM, PIN - 686001**
- 2 ADDITIONAL COMMISSIONER,
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS, CENTRAL
TAX & CENTRAL EXCISE (AUDIT), CR BUILDING, IS PRESS
ROAD, KOCHI, PIN - 682018**

**BY ADV SHRI.V.GIRISHKUMAR,
SC, CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS**

OTHER PRESENT:

SRI. V GIRISH KUMAR, SC FOR R1 AND R2

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30.09.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



J U D G M E N T

The petitioner is a company registered under the Companies Act, 1956 and is also a registered taxpayer under the provisions of the CGST (Central Goods and Services Act, 2017) (for short 'CGST Act')/KSGST (Kerala State Goods and Services Act, 2017) Act. The challenge raised in this writ petition is against Ext.P9 show cause claimed to have been issued based on an audit report under Section 65 of the CGST Act. The case of the petitioner is that, the Ext.P9 show cause notice is not legally sustainable, as the audit note based on which the said notice is issued, has not been issued by following the procedure contemplated under Section 65 of the CGST Act, read with Rule 101 of the CGST Rules.

2. Earlier, the petitioner was issued with Ext.P3 audit notice in Form GST ADT-01, dated 17.01.2024. The petitioner submitted Ext.P4 reply, by producing the relevant documents sought for in the said audit notice. Based on the same, an audit inspection was conducted in the petitioner's establishment, during the month of May 2025, and based on the same, Ext.P5 draft Audit Report was issued to the petitioner on 04.07.2024. Ext.P5 was voluminous and



contained several years' information, and hence, the petitioner wanted some more time to submit a reply, since according to the petitioner the time specified in Ext.P5 was not sufficient. Exts.P6 and P7 are the requests made by the petitioner for more time to submit a reply. According to the petitioner, without considering the same, Ext.P8, which claimed to be an audit note, was issued to the petitioner on 16.07.2024. According to the petitioner, even though Ext.P8 stated to be a final audit note, the contents of the same was more in the form of questions, requiring the petitioner to furnish certain more details with respect to the discrepancies alleged therein.

3. Immediately after the issuance of Ext.P8, Ext.P9 show cause notice was issued on 31.07.2024 based on the discrepancies highlighted in Ext.P8. Ext.P9 is dated 31.07.2024 and immediately thereafter, a corrigendum to the said show cause notice was issued, as evidenced by Ext.P10 on 01.08.2024, carrying out certain corrections in Ext.P9. The petitioner is challenging Exts.P9 and P10 in this writ petition, for the reasons mentioned above.

4. During the pendency of this writ petition, a further audit report dated 03.09.2024 was issued to the petitioner,



which is produced as Ext.P11, along with IA No.1 of 2024. The sum and substance of the case advanced by the petitioner is that, since the audit has not been finalized by following the procedure contemplated under Section 65 of the CGST Act, the show cause notice cannot be treated as valid and hence interference is required.

5. A statement has been submitted on behalf of the respondent, wherein, the circumstances under which, the proceedings are initiated and finalized, were explained. The respondents also raised the question of maintainability of this writ petition, as the main challenge raised in this writ petition, is against a show cause notice. According to the respondents, since it is a show cause notice, the petitioner would get the opportunity to raise their objections and to get it adjudicated by a competent authority. Therefore, according to the respondents, no interference is required, under Article 226 of the Constitution of India.

6. I have heard Smt. Ammu Charles, learned counsel appearing for the petitioner, and Sri V. Girish Kumar, learned Standing Counsel for the respondents.

7. In support of the challenge raised, mainly two



contentions are raised by the petitioner. First contention is with regard to the period of limitation contemplated under Section 65, for the purpose of completing the audit proceedings. The second contention is that, the procedure as contemplated under Section 65 was not followed, while finalizing the audit proceedings and also that, the petitioner was not granted a proper opportunity to submit a reply to the discrepancies highlighted in the audit as provided in Rule 101 of the CGST Rules.

8. When considering the question of limitation, it is to be noted that, a statutory time limit is contemplated under Sec.65 (4) of the CGST Act. As per the said provision, the audit under sub section (1) of section 65, shall be completed within a period of three months from the date of commencement of the audit. Thus, the period has to be reckoned from the date of commencement of the audit. In the Explanation to Section 65 (4), the expression "commencement of audit" is defined, and it is the date on which, *the records and other documents called for by the tax authorities are made available by the registered person or the actual institution of the audit at the place of business whichever is later*. In this case, the contention of the



petitioner that the proceedings were not finalized within the time limit contemplated under sub section (4) of Section 65, is based on the fact that, according to the petitioner, all the necessary documents were submitted by the petitioner as per Ext.P4, as early as on 24.01.2024. Therefore, the petitioner contends that, the proceedings should have been finalized on or before 23.04.2024, whereas, it was completed by Ext.P11 on 03.09.2024.

9. However, as mentioned above, as per Explanation to sub section (4) of Section 65, the commencement of audit has to be reckoned, based on, either of two incidents referred to therein, and the later incident among the same has to be taken into account. In this case, it is discernible from Ext.P11 that, the actual audit was conducted in the premises of the petitioner during various days between 24th May to 4th June 2024. Thus, the actual institution of the audit in the premises of the petitioner was on 24th May 2024 and therefore, by virtue of the Explanation to sub section (4) of Section 65, the commencement of audit has occurred on 24th May 2024, being the later date. If that date is reckoned as the actual date of commencement of the audit, under no circumstances, the audit



which is finalized as per Ext.P11 on 03.09.2024 could be treated as time-barred. Therefore, the said contention has to be decided against the petitioner.

10. However, when moving on to the next contention, I find merit in the submission made by the learned counsel for the petitioner. This is because, Section 65(6) provides that, on conclusion of the audit, the proper officer shall, within 30 days, inform the registered person whose records are audited, about the findings, his rights and obligations and the reasons for such findings. Rule 101 of the CGST Rules provides the procedure through which, the audit has to be completed. Sub Rule (4) of Rule 101 provides that, the proper officer may inform the registered person of the discrepancies noticed, if any, as observed in the audit and the said person may file his reply and the proper officer shall finalize the findings of the audit after due consideration of the reply furnished.

11. In this case, going through the sequence of events as revealed from Exts.P5, P8, P9 and P11, it is to be noticed that, initially on 04.07.2024, Ext.P5 draft audit observations were issued to the petitioner, to which, the petitioner submitted Exts.P6 and P7, requesting some more time. However,



immediately thereafter, Ext P8 audit note was issued , which was followed by Ext.P9 Show Cause Notice dated 31.07.2024 . Thus, evidently, the officer concerned has treated Ext.P8 as the final audit note, and proceeded to issue a Show Cause Notice in the form of Ext.P9, by placing reliance upon the discrepancies highlighted in Ext.P8. However, as rightly contended by the petitioner, a perusal of Ext.P8 would indicate that, the same is more in the form of an intimation as to the discrepancies revealed during the course of audit, so as to enable the petitioner to furnish it's reply as mandated under sub rule (4) of Rule 101 of the CGST Rules. Further, before providing the petitioner an opportunity for submitting such reply, Ext.P9 Show Cause Notice was issued, which was followed by Ext.P10 Corrigendum by treating Ext.P8 as a final audit observations. The same was immediately challenged by the petitioner before this Court and in the mean time, Ext.P11 was issued on 03.09.2024, which is the actual final audit observations as mandated under Section 65 of the Act. From the documents, it is evident that, even according to the respondents, Ext.P11 is the final audit observation, and if that be so, the Ext.P9 cannot be treated as a legally sustainable show cause notice, as the same is issued on 31.07.2024, which



is prior to the issuance of Ext.P11, based on the observations in Ext.P8 dated 16.07.2024 which is not a final audit observations but only an intimation as to the discrepancies found out in the audit report. Thus, Ext.P9 cannot be sustained in view of the fact that, the same is issued, based on a report which did not attain finality.

12. When it comes to the issuance of Ext.P11, it is to be noted that, if the same is treated as a final audit observations, as now claimed by the respondents, then, it also will not have any legal sanctity, in view of the fact that, the same was issued without providing an opportunity to submit its objections, as mandated under sub rule (4) of Rule 101 of the CGST Rules. Of course, it is true that, before issuing Ext.P8, a draft audit observations were issued to the petitioner based on Ext.P5 to which the petitioner sought some time. However, Ext.P8 was issued thereafter without any reference to the Exts.P6 and P7 and also without passing an order either rejecting or accepting request made by the petitioner in Exts.P6 and P7. Therefore, the only conclusion possible from the aforesaid proceedings is that, the statutory mandate as contemplated under Rule 101 (4) of the CGST Rules has not been followed, while finalising



the audit proceedings, as evidenced by Ext.P11. As mentioned above, Ext.P9 Show Cause Notice was issued, on the basis of a report, which has not attained finality and hence, the same is also not legally sustainable. In such circumstances, the matter requires reconsideration.

Accordingly, this writ petition is disposed of, quashing Exts.P9 and P11, with a direction to the competent among the respondents, to permit the petitioner to submit objections to Ext.P8 and to finalize the proceedings based on the reply submitted by the petitioner. It is further directed that the petitioner shall submit its reply to Ext.P8 within a period of one month from the date of receipt of copy of this judgment. Thereupon the audit proceedings shall be finalised after considering the said reply. The same shall be completed as expeditiously as possible.

Sd/-

ZIYAD RAHMAN A.A.
JUDGE



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APPENDIX OF WP(C) NO. 30354 OF 2024**PETITIONER EXHIBITS**

Exhibit P1	TRUE COPY OF THE FORM GST ADT -01 NOTICE DATED 04.11.2020
Exhibit P2	TRUE COPY OF THE REPLY DATED 11.12.2020 SUBMITTED BY THE PETITIONER
Exhibit P3	TRUE COPY OF THE FORM GST ADT -01 NOTICE DATED 17.01.2024
Exhibit P4	TRUE COPY OF THE REPLY DATED 24.01.2024 SUBMITTED BY THE PETITIONER
Exhibit P5	TRUE COPY OF THE EMAIL DATED 04.07.2024 ALONG WITH THE ATTACHED DRAFT AUDIT OBSERVATION SENT TO THE PETITIONER BY AUDIT TEAM, KOTTAYAM
Exhibit P6	TRUE COPY OF THE PETITIONER'S EMAIL DATED 11.07.2024
Exhibit P7	TRUE COPY OF THE LETTER DATED 15.07.2024 FORWARDED BY THE PETITIONER TO THE SUPERINENDENT AUDIT GROUP31, KOTTAYAM
Exhibit P8	TRUE COPY OF THE AUDIT OBSERVATION NO.APR.NO.37/GST/31/2024 DATED 16.07.2024
Exhibit P9	TRUE COPY OF THE SHOW CAUSE NOTICE NO. 16/2024-25-GST (HQ AUDIT) DATED 31.07.2024
Exhibit P10	TRUE COPY OF THE CORRIGENDUM OF THE 2ND RESPONDENT DATED 01.08.2024
Exhibit P11	TRUE COPY OF THE FINAL AUDIT REPORT DATED 03.09.2024

RESPONDENTS' EXHIBITS:NIL**TRUE COPY****P.A.TO JUDGE**