



2026:KER:1522

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE V.G. ARUN

&

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

THURSDAY, THE 8<sup>TH</sup> DAY OF JANUARY 2026 / 18TH POUSHA, 1947

WA NO. 1659 OF 2020

THE JUDGMENT DATED 19.03.2020 IN WP(C) NO.5384 OF 2020 OF  
HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS IN W.P. (C) :

- 1 THE ASSISTANT STATE TAX OFFICER  
SQUAD NO.1, SGST DEPARTMENT, PALAKKAD, KERALA - 678  
001.
- 2 THE COMMISSIONER OF COMMERCIAL TAXES  
TAX TOWER, KILLIPPALAM, KARAMANA P. O.,  
THIRUVANANTHAPURAM - 695 002.  
BY ADV GOVERNMENT PLEADER

RESPONDENT/PETITIONER IN W.P. (C) :

HINDUSTAN COCA COLA PRIVATE LIMITED  
BUILDING NO.XI/9, NEAR CENTRAL WAREHOUSING, EDATHALA,  
PANCHAYATH, OPP. SOS VILLAGES ALUVA EAST VILLAGE,  
ERNAKULAM, REPRESENTED BY ITS AUTHORIZED SIGNATORY, MR.  
SANISH JOHN T. D., PIN - 683 563.

BY ADVS.  
SMTG.MINI(1748)  
SHRI.P.J.ANILKUMAR  
SRI.P.S.SREE PRASAD  
SHRI.A.KUMAR (SR.)

THIS WRIT APPEAL HAVING BEN FINALLY HEARD ON 08.01.2026,  
ALONG WITH WA.1553/2021, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:



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W.A. Nos.1659 of 2020  
and 1553 of 2021

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

&

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

THURSDAY, THE 8<sup>TH</sup> DAY OF JANUARY 2026 / 18TH POUSHA, 1947

WA NO. 1553 OF 2021

THE JUDGMENT DATED 13.10.2020 IN WP(C) NO.21582 OF 2020 OF  
HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS IN W.P. (C) :

- 1 THE ASSISTANT STATE TAX OFFICER  
247 MOBILE SQUAD, THAMARASSERY, STATE GST DEPARTMENT,  
KOZHIKODE - 673 006.
- 2 THE ASSISTANT COMMISSIONER (INT)  
MOBILE SQUAD THAMARASSERY, STATE GST DEPARTMENT,  
KOZHIKODE - 673 006.
- 3 THE JOINT COMMISSIONER (INT)  
STATE GST DEPARTMENT, KOZHIKODE - 673 006.  
BY ADV GOVERNMENT PLEADER

RESPONDENT/PETITIONER IN W.P. (C) :

ASHARAF ALI. K.H.  
S/O.HYDER, KUNNATH KALATHIL HOUSE, KUNNUMMELPOTTY  
P.O., MALAPPURAM - 679 331.

BY ADVS.

SRI.P.N.DAMODARAN NAMBOODIRI  
SHRI. HRITHWIK D. NAMBOOTHIRI

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 08.01.2026,  
ALONG WITH WA.1659/2020, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:



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## **JUDGMENT**

**Dated this the 8<sup>th</sup> day of January, 2026**

**HARISANKAR V. MENON, J**

These writ appeals are filed by the Revenue/ Department challenging the judgment of the learned Single Judge, setting aside the proceedings initiated under the provisions of Section 129(3) of the Central Goods and Services Tax Act and the State/Union Territory Goods and Services Tax Act.

2. Dr.Thushara James, learned Senior Government Pleader would contend that, admittedly the goods have been detained even though the transport of the goods were accompanied with separate e-way bills, as there was mis-description of the commodity. A reading of the detention notice, which has been challenged in the



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Writ Petition, would show that documents prescribed under the statute – e-way bill etc.-were accompanying the consignment with the same description. Therefore, especially when the detaining officer specifically states that there is difference with reference to HSN No., it is for the officer who detained the goods to inform the assessing authority of the respondents herein, about the description difference and it is for the assessing authority to consider the same while considering the acceptability or otherwise of the returns to be filed by the assessee.

3. Proceedings under Section 129 of the Act based on misclassification or mis-description, as suggested by the Learned Government Pleader, is not called for.

4. Therefore, the learned Single Judge was perfectly justified in allowing the writ petition, especially



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when the very same issue has already been considered and decided against the Revenue/Department by various judgments of this Court including the one at **N.V.K Mohammed Sulthan Rawther and Sons vs. Union of India & Ors.** (2018 VIL-502-KER) referred to by the learned Single Judge.

Resultantly, these appeals would stand dismissed, however, permitting the Revenue/Department to point out these aspects in the assessment proceedings, if so advised.

**Sd/-  
V.G.ARUN  
JUDGE**

**Sd/-  
HARISANKAR V. MENON  
JUDGE**

SSK/08/01