

(2024) 05 KL CK 0235

In the High Court Of Kerala

Case No : Writ Petition (C) No. 18574 Of 2024

M/s Krishna Holiday Village

APPELLANT

Vs

Deputy Commissioner

RESPONDENT

Date of Decision : 28-05-2024

Acts Referred:

Kerala General Sales Tax Act, 1963 — Section 23
Kerala General Sales Tax Rule, 1963 — Rule 30B

Citation : (2024) 05 KL CK 0235

Hon'ble Judges : Murali Purushothaman, J

Bench : Single Bench

Advocate : N.Muraleedharan Nair, Antony Jones

Final Decision : Disposed Of

Judgement

Murali Purushothaman, J

1. Petitioner firm is an assessee under the Kerala General Sales Tax Act, 1963 (KGST Act, for short). The firm is running a bar attached hotel and is liable to pay turnover tax under the KGST Act. Ext.P1 is the assessment order for the assessment year 2021-2022. Ext.P2 is the notice issued pursuant to Ext.P1 demanding turnover tax of Rs.75,31,712/- (Rupees seventy five lakhs thirty one thousand seven hundred and twelve only). Ext.P3 is the notice demanding interest of Rs. 15,57,279/-(Rupees fifteen lakh fifty seven thousand two hundred and seventy nine only).

2. The petitioner states that they are not in a position to pay the amount demanded in Exts.P1 to P3, in lumpsum. Therefore, the petitioner submitted an application before the respondent, the assessing authority, for granting installment facility to clear the dues. By Ext.P4 order, the respondent, exercising the powers under Section 23 of the KGST Act and Rule 30B of the Kerala General Sales Tax Rules, 1963 (KGST Rules) granted permission to the petitioner to pay the amounts covered by Exts.P1 to P3 in six monthly installments commencing

from 01.11.2023. Accordingly, the petitioner paid an amount of Rs.29,52,490/- (Rupees twenty nine lakhs fifty two thousand four hundred and ninety only) over a period of three months, as evidenced by Exts.P5 to P12 chalans.

3. It is submitted by the learned counsel for the petitioner that the petitioner is facing acute financial difficulties and will not be able to remit the balance amount covered by Exts.P1 to P3 as per the installment facility granted in Ext.P4. As per the statute, the respondent cannot allow more than six monthly installments. Accordingly, the petitioner has filed this writ petition seeking indulgence of this Court to allow the petitioner to pay the balance arrears of tax in 20 monthly installments.

4. Heard Sri. N. Muraleedharan Nair, the learned counsel for the petitioner and Smt. Reshmitha R. Chandran, the learned Government Pleader for the respondent.

5. Section 23 of the KGST Act deals with payment and recovery of tax and provides that the tax assessed or any other amount demanded under the Act shall be paid in such manner and in such installments, if any, and within such time, as may be specified in the notice of demand, not being less than twenty one days from the date of service of the notice. Rule 30B of the KGST Rules reads as follows:-

"Granting of installments by assessing authority – An assessing authority who issue a notice of demand under these rules for the payment of any tax or other amount may, on request by the dealer, allow such amount to be paid in not more than six monthly installments. Interest under Sub-Section (3) of Section 23 however be payable on the amount remaining unpaid."

6. As per Rule 30B, the assessing authority can permit the dealer to pay the amount of tax in up to six monthly installments, based on his request, but not more than six. By Ext.P4, the assessing authority has granted six installments. The petitioner submits that, since they are facing acute financial difficulties, they may be permitted to pay the balance of the tax arrears in 20 installments.

7. The statute does not prohibit the payment of taxes in installments. It allows the assessing authority to permit the dealer to pay the amount of tax in up to six monthly installments upon request. Therefore, in appropriate cases, this Court can exercise discretion under Article 226 of the Constitution and allow the dealer to pay the amount of tax in easy installments, extending beyond the installments granted by the assessing authority under Rule 30B of the KGST Rules.

8. The petitioner had paid a substantial portion of the tax demanded in Exts.P1 to P3. Appreciating the petitioner's bona fides and taking note of the petitioner's plea of financial difficulties, to provide some succor to the petitioner, the petitioner is permitted to pay the balance amount of tax demanded in Exts.P1 to P3, in 10 equal monthly installments commencing from 15.06.2024. If the petitioner consecutively commits default of two installments, the benefit of this

judgment will be lost, and the respondent will be free to recover the entire amount with interest.

The writ petition is disposed of.