

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 3<sup>RD</sup> DAY OF JANUARY 2023 / 13TH POUSHA, 1944

WP(C) NO. 42313 OF 2022

**PETITIONER:**

M/S OFFSHORE INFRASTRUCTURES LTD., SREEHARI, MPRA 12,  
EROOR WEST P.O, THIRIPUNITHURA, REPRESENTED BY IT'S HR  
CUM ADMIN OFFICER MR. LINIT GEORGE.

BY ADV K.LATHA

**RESPONDENTS:**

- 1 THE STATE OF KERALA,  
REPRESENTED BY CHIEF SECRETARY, SECRETARIAT,  
THIRUVANANTHAPURAM - 695 002.
- 2 THE ASSISTANT COMMISSIONER (WORKS CONTRACT),  
OFFICE OF THE DEPUTY COMMISSIONER COMMERCIAL TAXES,  
CLAS TOWER, 2ND FLOOR, OLD RAILWAY STATION ROAD,  
ERNAKULAM - 682 018.
- 3 THE DEPUTY COMMISSIONER, (WORKS CONTRACT,) )  
ATTACHED TO THE OFFICE OF THE JOINT COMMISSIONER,  
STATE GOODS AND SERVICES TAX DEPARTMENT,  
CLAS TOWER, 2ND FLOOR, OLD RAILWAY STATION ROAD,  
ERNAKULAM - 682 018.
- 4 THE INSPECTING ASST. COMMISSIONER,  
STATE GOODS AND SERVICES TAX DEPARTMENT,  
KAKKANAD, ERNAKULAM - 682 030.

ADV. THUSHARA JAMES (SR GP)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
03.01.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

The petitioner has approached this Court challenging Ext.P4 order of assessment under the Kerala Value Added Tax Act, 2003 for the months of April, May and June of the assessment year 2017-18. The learned counsel appearing for the petitioner would submit that in respect of the order of assessment for assessment year 2016-17, this Court had issued Ext.P3 judgment, permitting the petitioner to substantiate its case before the assessing officer. The reasoning which compelled this Court to issue the directions contained in Ext.P3 judgment are recorded in paragraph 4 of that judgment, which reads as follows:

*“4. Having heard the learned counsel appearing for the petitioner and the learned Senior Government Pleader, I am of the opinion that the petitioner can be given an opportunity to substantiate his case before the assessing officer. It is true that despite issuance of notice, the petitioner did not take part in the assessment proceedings. However, this Court cannot shut its eyes to the fact that the assessments of the petitioner in respect of the previous years have been completed by the assessing officer and it appears that the case of the petitioner was accepted by the assessing officer. The demand raised by the petitioner is huge and it will only be appropriate that such demands are finalised after affording to the petitioner a proper opportunity of taking part in the assessment proceedings.*

*Accordingly, Ext.P8 order assessment order is set aside. The petitioner shall appear before the 2<sup>nd</sup> respondent at 11 A.M on 18-11-2022, either in person or through authorised representative. The 2<sup>nd</sup> respondent shall thereafter complete the proceedings initiated against the petitioner for the assessment year 2016-2017 in accordance with law and after affording to the petitioner an opportunity to produce such documents as may be necessary in support of its claim. Fresh order of assessment shall be issued within a period of six weeks from 18-11-2022.*

*The writ petition is disposed of as above."*

The learned counsel appearing for the petitioner would submit that since the considerations which compelled this Court to issue directions contained in Ext.P3 judgment apply equally to the completion of assessment for the three month period of assessment year 2017-18, Ext.P4 assessment order may also be set aside and the matter may be remitted for fresh consideration of the assessing officer.

3. The learned Government Pleader appearing for the respondents would point out to the order of assessment and states that all possible opportunity was extended to the petitioner and having failed to avail the opportunity, it is not open to the petitioner to now contend that a further opportunity must be given to the petitioner.

4. Having heard the learned counsel for the petitioner and the learned Senior Government Pleader appearing for the respondents, I am of the view that there is no reason to depart from the view taken by me in Ext.P3 judgment. Moreover, it will be more appropriate and convenient that the issue relating to the three month period in question of A.Y 2017-18 is also considered and decided along with the matters directed to be considered in terms of Ext.P3 judgment. Therefore, Ext.P4 assessment order is quashed and the matter is remanded for fresh consideration of the 2<sup>nd</sup> respondent. The petitioner shall appear before the 2<sup>nd</sup> respondent at 11.00AM on 11.01.2023 either in person or through authorized representative. The 2<sup>nd</sup> respondent shall thereafter complete the assessment proceedings afresh for three months period of 2017-18 mentioned above, in accordance with law, after affording to the petitioner an opportunity to produce such documents that may be necessary in support of its claim. Fresh assessment order shall be issued within a period of six weeks from 11.01.2023.

The writ petition will stand disposed of as above.

Sd/-  
**GOPINATH P.**  
**JUDGE**

DK

**APPENDIX OF WP(C) 42313/2022**

PETITIONER EXHIBITS

Exhibit P1	THE TRUE COPY OF SOME SAMPLE WORK ORDERS GIVEN BY BHARATH PETROLEUM CORPORATION LIMITED. COCHIN TO THE PETITIONER COMPANY
Exhibit P2	THE TRUE COPY OF THE ASSESSMENT ORDER NO 32072032585/14-15 DATED 16-10-2019 FOR THE YEAR 2014-2015 AND ASSESSMENT ORDER NO 32072032585/15-16 DATED 08-12-2021 FOR THE YEAR 2015-2016
Exhibit P2(a)	ASSESSMENT ORDER NO 32072032585/14-15 DATED 16-10-2019 FOR THE
Exhibit P3	THE TRUE COPY OF THE JUDGMENT IN W.P ( C ) NO. 26447 OF 2022 DATED 4TH DAY OF NOVEMBER 2022
Exhibit P4	THE TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2017-2018 DATED 11-7-2022 AND THE DEMAND NOTICE THEREON ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER