



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

MONDAY, THE 24<sup>TH</sup> DAY OF FEBRUARY 2025 / 5TH PHALGUNA, 1946

WP(C) NO. 5220 OF 2025

PETITIONER :

KUTTUKARAN ANTONY ANTO  
AGED 65 YEARS  
PROPRIETOR, M/S. TOBACCO DEALER,  
25/1865, MARKET ROAD, THRISSUR,  
PIN - 680 001

BY ADVS.  
K.KRISHNA  
ACHYUTH MENON  
NIRMAL KRISHNAN

RESPONDENTS :

- 1 THE STATE TAX OFFICER  
4TH CIRCLE, STATE GOODS AND SERVICES TAX DEPARTMENT,  
POOTHOLE, THRISSUR, PIN - 680004
- 2 THE DEPUTY COMMISSIONER (ADJUDICATION)  
OFFICE OF THE JOINT COMMISSIONER OF STATE TAX,  
STATE GOODS AND SERVICES TAX DEPARTMENT,  
POOTHOLE, THRISSUR, PIN - 680004
- 3 THE DEPUTY COMMISSIONER (ARREAR RECOVERY)  
OFFICE OF THE JOINT COMMISSIONER OF STATE TAX,  
STATE GOODS AND SERVICES TAX DEPARTMENT,  
POOTHOLE, THRISSUR, PIN - 680 004



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- 4      CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS  
GST POLICY WING, NORTH BLOCK, NEW DELHI,  
REPRESENTED BY PRINCIPAL COMMISSIONER (GST) ,  
PIN - 110 001
  
- 5      STATE OF KERALA  
REPRESENTED BY SECRETARY TO GOVERNMENT,  
TAXES DEPT., GOVT. SECRETARIAT, THIRUVANANTHAPURAM,  
PIN - 695001
  
- 6      UNION OF INDIA  
REPRESENTED BY SECRETARY TO GOVERNMENT,  
MINISTRY OF FINANCE (DEPARTMENT OF REVENUE) ,  
NORTH BLOCK, NEW DELHI, PIN - 110 001

BY SMT.DR.THUSHARA JAMES, SENIOR GOVERNMENT PLEADER

BY ADV A.K.PREETHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 24.02.2025, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:



**BECHU KURIAN THOMAS, J.**

**=====**

**W.P.(C).No.5220 of 2025**

**=====**

**Dated this the 24<sup>th</sup> day of February, 2025**

**JUDGMENT**

Petitioner is a tax payer under the CGST/ SGST Acts, 2017 (for short, 'the Act'). For the assessment year 2018-19, petitioner was issued with an assessment order under Section 73 as per Ext.P4. Petitioner had filed its return for various months of 2019 belatedly. Subsequently, by virtue of an amendment effected, sub-clause (5) to Section 16 of the Act was incorporated. Petitioner contends that the returns filed by him can be treated as within time in view of the amendment and therefore the petitioner ought to be given the benefit.

2. On 10.02.2025, this Court had issued a direction giving liberty to the petitioner to file appropriate application claiming the benefit of Section 16(5) of the Act. Since, it is now submitted that the returns were filed within the time and hence petitioner is entitled for the benefit by application of Section 16(5) of the Act, I am of the view that the writ petition can be disposed of directing the assessing authority to consider granting the benefit of Section 16(5) of the Act to the petitioner, if he is entitled to, in accordance with law.



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3. Accordingly, this writ petition is disposed of directing the first respondent to consider and pass appropriate orders, in accordance with law, regarding the claim of the petitioner for the benefit available under Section 16(5) of the Act. Since the petitioner claims that they are entitled for the benefit of Section 16(5) of the Act, the first respondent shall consider the same in accordance with law and if the said provision is applicable, he shall pass appropriate orders giving such benefits.

The orders as directed above, shall be passed, as expeditiously as possible, at any rate, within a period of 30 days from today. Ext.P6 revenue recovery proceedings initiated against the petitioner shall be kept in abeyance till orders are passed by the first respondent as directed above. If the petitioner is given the benefit of amended provisions of Section 16(5) of the Act, necessarily consequences will follow.

The writ petition is disposed of as above.

Sd/-

**BECHU KURIAN THOMAS, JUDGE**

RKM



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APPENDIX OF WP(C) 5220/2025

PETITIONER'S EXHIBITS :

Exhibit P1	COPY OF INTIMATION IN FORM GST DRC-01A ISSUED BY THE 1ST RESPONDENT DTD. 03-08-2022
Exhibit P2	COPY OF REPLY FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DTD. 17-08-2022
Exhibit P3	COPY OF SHOW CAUSE NOTICE ISSUED BY THE 1ST RESPONDENT DTD. 18-10-2022
Exhibit P4	COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DTD. 16-01-2024
Exhibit P5	COPY OF JUDGMENT IN WPC NO. 9562/2024 OF THIS HON'BLE COURT DTD. 18-06-2024
Exhibit P6	COPY OF NOTICE ISSUED BY THE 3RD RESPONDENT DTD. 22-01-2025