

TAX INFO

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Latest update on GST Law: Information regarding **Kerala HC directs revenue to allow uploading of Returns for past period to avail Input Tax Credit.**

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Name of Applicant	Madhav Motors Vs State Tax Officer
Name of Court	High Court Of Kerala
Writ Number	WP(C).No.5238 OF 2020(D)
Date of Judgement	27/10/2020

Facts of the Case:

The petitioner is a dealer in automobiles and was registered under Kerala Value Added Tax Act. With the introduction of the GST Act with effect from 01.07.2017, he had applied for registration vide application dated 28.06.2017, he was granted provisional registration in terms of Section 139 (1) of the said Act. It is the case of the petitioner that, thereafter, with the hope of getting a permanent registration, he had attempted to upload the Form TRAN-1 for claiming the input tax credit in respect of the tax paid on a closing stock that was available with him at the time of the transition into the GST regime. He submits that despite a number of attempts made for the purpose, he was not able to login into the system and upload the TRAN-1 Form mainly due to the reason that he was not granted permanent registration. In November 2019, the petitioner attempted to generate e-way bills but, once again, could not do so since he had not received the permanent registration that he had applied for by then. It is significant to note that, while the permanent registration was not granted, the provisional registration initially granted had also not been cancelled by the respondents through the procedure contemplated under the Act. Under the said circumstances, the petitioner preferred representation before the respondents, which again did not yield any response. Thereafter, Plaintiff apply for fresh Registration under GST Act and thus finally registration certificate was granted under GST Act, vide certificate dated 04.01.2020 indicates that the date of liability wef 01.07.2017 and Date of Validity wef 04.01.2020. Noticing the said discrepancy in the registration certificate, the petitioner preferred a request before the respondents for a change in the effective date of the registration certificate from 04.01.2020 to 01.07.2017. The said request of the petitioner was rejected vide communication dated 11.01.2020. Impugning the said rejection, the petitioner is before this Court through the present Writ Petition.

Observations of the Court:

It is this discrepancy that is highlighted by the petitioner in the present writ petition, and stated to be the reason why the benefit of the input tax credit, etc. are being denied to him, as also for his not being able to upload the returns for the period prior to 04.01.2020 in the web portal/system maintained by the respondents.

The Decision of the Court:

When the provisional registration granted to the petitioner was not cancelled through the procedure contemplated under the Act and Rules, and the respondents had granted a regular registration on 04.01.2020, the permanent registration must relate back to the date of the provisional registration and the petitioner ought to be entitled to upload the returns for the past period between the date of Liability and date of validity as shown in the Registration Certificate and to avail eligible input tax credit based on the returns uploaded by him. The communication dated 11.01.2020 was quashed and the respondents were directed to amend the Registration Certificate issued to the petitioner so as to make it valid from 01.07.2017 and permit the petitioner to upload the returns and to pay tax as well as claim input tax credit based on the returns so uploaded.

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