



2025:KER:13505

**IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT**

**THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**&**

**THE HONOURABLE MR. JUSTICE EASWARAN S.**

**TUESDAY, THE 18<sup>TH</sup> DAY OF FEBRUARY 2025 / 29TH MAGHA, 1946**

**OT.REV NO. 72 OF 2023**

**AGAINST THE ORDER/JUDGMENT DATED 29.09.2023 IN TAVAT  
NO.18 OF 2021 OF KVAT APPELLATE TRIBUNAL**

**REVISION PETITIONER/APPELLANT/APPELLANT/ASSESSEE:**

**JOB GEEVARGHESE OOMMEN (WRONGLY SHOWN AS JOB  
VARGHESE OOMMEN IN THE TRIBUNAL ORDER),  
AGED 50 YEARS  
PROPRIETOR, M/S PENIEL CASHEW COMPANY, PUTHUR,  
KOLLAM DISTRICT, PIN - 691507**

**BY ADVS.  
BOBBY JOHN  
S.AJAYGHOSH KUMAR**

**RESPONDENT/RESPONDENT/RESPONDENT/REVENUE:**

**STATE OF KERALA,  
REPRESENTED BY THE SECRETARY TO GOVERNMENT, TAXES  
DEPARTMENT, SECRETARIATE, THIRUVANANTHAPURAM,  
PIN - 695001**

**Sr GP V K Shamsudheen**

**THIS OTHER TAX REVISION (VAT) HAVING BEEN FINALLY HEARD ON  
18.02.2025, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**



## **ORDER**

**Dr.A.K.Jayasankaran Nambiar, J.**

This OT Revision is preferred challenging the order dated 29.09.2023 of the Kerala Value Added Tax Appellate Tribunal in TA(VAT)No.18 of 2021 on the limited issue of whether or not there was a transfer of the right to use goods in a transaction that involved the hiring of a vehicle belonging to the petitioner by the Indian Oil Corporation for transport of petroleum products.

2. When the matter was taken up for hearing, it was submitted by the learned counsel for the petitioner that the same issue has been considered by the Supreme Court in the decision reported as ***K.P.Mozhika v. Oil and Natural Gas Corporation Ltd. and others*** [MANU/SC/0027/2024]. When we go through the impugned order of the Tribunal, we find that the factual situation arising in the instant case has not been analysed by the Tribunal in the light of the aforecited judgment of the Supreme Court above, since the Tribunal did not have the benefit of the said judgment at the time of disposal of the appeal by it.

3. Under these circumstances, we deem it appropriate to set aside the impugned order of the Tribunal on the said issue and



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remand the matter to the Tribunal for a fresh consideration in the light of the judgment of the Supreme Court referred above to the facts of the instant case. The Appellate Tribunal shall consider and dispose the appeal pursuant to this remand within an outer time limit of six months from today and in order to enable the Tribunal to do so, the parties shall appear before the Tribunal on 17.03.2025.

Sd/-

**DR. A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

Sd/-

**EASWARAN S.**  
**JUDGE**

ACR



**APPENDIX OF OT.REV 72/2023**

**PETITIONER ANNEXURES**

- |                     |                                                                                                                                                                                                                                                      |
|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Annexure I</b>   | <b>TRUE COPY OF THE ASSESSMENT ORDER DATED 30-06-2016, ISSUED BY ASSISTANT COMMISSIONER (ASSESSMENT), COMMERCIAL TAXES, (NOW SGST DEPARTMENT) SPECIAL CIRCLE KOTTARAKKARA TO THE PETITIONER FOR THE YEAR 2012-13</b>                                 |
| <b>Annexure II</b>  | <b>TRUE COPY OF THE FIRST APPELLATE ORDER DATED 23-12-2020, IN KVATA(KLM)169/2018, PASSED BY THE JOINT COMMISSIONER OF STATE TAX (APPEALS) III, KOLLAM SGST DEPARTMENT, KOLLAM</b>                                                                   |
| <b>Annexure III</b> | <b>THE TRUE COPY OF THE SECOND APPEAL MEMORANDUM DATED 20.02.2020 FILED BY THE ASSESSEE BEFORE THE KERALA VALUE ADDED TAX/ AGRL. INCOME TAX &amp; SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, THIRUVANANTHAPURAM AS T.A. (V.A.T.) NO.18/2021</b> |
| <b>Annexure IV</b>  | <b>TRUE CERTIFIED COPY THE TRIBUNAL ORDER DATED 29-09-2023, PASSED BY THE KERALA VALUE ADDED TAX/ AGRL. INCOME TAX &amp; SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, THIRUVANANTHAPURAM IN T.A. (V.A.T.) NO.18/2021</b>                          |
| <b>Annexure V</b>   | <b>TRUE COPY OF THE WORK ORDER NO. KESO/OPS/POL/T-02/2013-16/299/280 DATED 13-11-2013 ISSUED BY THE INDIAN OIL CORPORATION LTD</b>                                                                                                                   |
| <b>Annexure VI</b>  | <b>TRUE COPY OF THE LETTER DATED 08-09-2023 ISSUED BY THE INDIAN OIL CORPORATION LTD TO THE ASSESSEE</b>                                                                                                                                             |