Goods and Services Tax Appellate Tribunal
Thiruvananthapuram
Division Bench Court No. I

Appeal No: APL/15/TVP/2026

[arising out of the OIA No. GSTA (KTYM) 04/2023 dated 26-9-2023 passed by JC (Appeals), Kottayam]

Oxygen The Digital Shop ..... **Appellant**

Vs

The Commissioner of Keralam State GST,
Thiruvananthapuram .....**Respondent**

for Appellant
Aji V Dev, Advocate

for Respondent
Mansur MI, AR

CORAM: Hon'ble Shri Subramanya Rayaprol, Vice President
Hon'ble Shri Ramamoorthi Sriram, Member (Technical)

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FINAL ORDER NO : 12/TVP/KERALAM/2026

Date of Hearing: 10-9-2026
Date of Order: 16-10-2026

Per: Subramanya Rayaprol, Vice-President

1.0 Mr Aji V Dev, Ld Advocate appeared for the appellants. Mr Mansur MI, Ld Joint Commissioner appeared as AR for the respondents.

2.0 Ld Advocate for the appellant submits that the appellant is a partnership firm engaged in the retail business of trading of Digital Gadgets and its repair and maintenance services and is registered with the GST Department with GSTIN 32AABFO4106G1ZV. The issue in the present appeals is that the they had availed ITC on the basis of invoices SRW05/2017-18, SRW06/201718, SRW01/2017-18 & SRW02/2017- 18 wherein the product description is given as 'Joinery and carpentry services (SAC Code 995476)' and painting services issued

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by Brightech Interiors and Exteriors Private Limited. The said ITC is denied by the GST Authority on the grounds that it is restricted under Section 17(5) of the CGST/KGST Act, 2017. The said service is received for furnishing of showroom at their own retail shops to make additions or alterations to the showroom. The services provided by the supplier is installation of wooden shelves in the show rooms, and falls under the interior designing services can be classified under SAC 998391.

2.1 The appellant further submitted that the appellant does not own the commercial premises located at Vellayambalam and Nedumangadu, where the interior furnishing works were executed. The said premises were taken on a lease/rental basis purely for conducting the business of trading digital gadgets. As a tenant, the appellant installed detachable wooden shelves and movable display units necessary for the short-term display of goods. He submitted the copies of the rental agreements of two show rooms, one at Nedumangad Showroom and second at Vellayambalam Showroom for which the interior work and carpentry was done by Brightech Interiors and Exteriors Private Limited. He submits that the GST portion of the said invoices were not capitalized as a building or permanent civil structure, further solidifying their nature as detachable assets.

2.2 He has further made written submissions dated 7-9-2026, along with CA certificate and audited financial statements. He submitted the Audited Financial Statements for the Financial Year 2017-18. He also submitted a CA certificate, in which the expenditure covered by the said supplier's invoices has been classified and capitalized under the movable asset block of Furniture and Fixtures. It further certifies that the GST charged on the said invoices was not added to the cost of the fixed assets, and was accounted for separately as Input Tax Credit, and no depreciation was claimed on the tax component under the Income-tax Act,

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1961, in strict compliance with Section 16(3) of the CGST Act. He submits that the accounting treatment perfectly aligns with the submission that the furniture and fixtures are independent, movable assets, and not an immovable property. The classification under Furniture and Fixtures in the books of accounts proves beyond doubt that the management treated them as movable and detachable items.

2.3 He also relies on the ratio of the Karnataka Appellate Authority of Advance Ruling in M/s. Wework India Management (P.) Ltd. (2020) 116 taxmann.com 736; (2020) 5 TMI 388 (AAAR, Karnataka), which held that detachable fixtures treated as movable assets in the books are fully eligible for input tax credit, is squarely applicable to the instant case. He also submitted that the appellant has satisfied all conditions mandated under Section 16(2) of the CGST / KGST Act. The documents placed on record establish that the invocation of Section 17(5) by the Revenue was founded on a gross misclassification of movable furniture as immovable property. He prays that the appellate order and original assessment order may be set aside and allow the appeal with consequential reliefs. Hence, he prays that the ITC credit should be allowed.

3.0 Mr Mansur MI, Ld AR appearing for the Revenue (State), reiterates the findings of the First Appellate Authority, and also submits that all four invoices describe the supply as “Joinery and carpentry Services” under SAC 995476, with one invoice additionally billing “Painting services” under SAC 995473. This falls entirely within SAC Group 99547, “Building completion and finishing services”. This is the explicit classification the Appellant's own supplier adopted, invoiced, and was paid tax against. The Appellant's submission that the work should instead be treated as SAC 998391 appears nowhere on the invoices and is unsupported by any corrected invoice, credit note, or supplementary document. He also

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submits that the *Explanation* to Section 17(5)(c)/(d) expressly extends the term "construction" to include "reconstruction, renovation, additions or alterations or repairs, to the extent of capitalization"—language directed precisely at work carried out after a structure already exists. The Appellant's own supplier classified the work as "building completion and finishing services," which by definition follows the substantial completion of the civil shell. The timing of the work relative to the original construction does not remove it from the scope of Section 17(5).

3.1 He submits that the entire documentary record of the disputed transaction consists of four tax invoices issued by Brightech Interiors and Exteriors Pvt. Ltd. (Annexure-A) — SRW/01/2017-18 and SRW/02/2017- 18 dated 26.07.2017, and SRW/05/2017-18 and SRW/06/2017-18 dated 28.09.2017, billed to the Appellant's Vellayambalam and Nedumangad showrooms. Every line item is billed as a service, in lump sum ("LS"), under SAC 995476 ("Joinery and carpentry Services") and, in one invoice, SAC 995473 ("Painting services") — both falling within SAC Group 99547, "Building completion and finishing services". No invoice itemises specific movable fixtures; no work order, agreement, or scope-of-work document is on record; and no technical drawing, photograph, Chartered Accountant certificate, or fixed-asset register entry has been produced by the Appellant. The only description of the work that exists in the paper book is the classification the Appellant's own supplier gave it at the time of invoicing.

3.2 He has raised the issue of 1: Whether the supply is correctly classifiable as "interior design services" (SAC 998391), taking it outside Section 17(5), as now contended by the Appellant? Respondent's Submission: No. All four invoices describe the supply as "Joinery and carpentry Services" under SAC 995476, with one invoice additionally billing "Painting

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services” under SAC 995473. This falls entirely within SAC Group 99547, “Building completion and finishing services”. This is the explicit classification the Appellant's own supplier adopted, invoiced, and was paid tax against. The Appellant's submission that the work should instead be treated as SAC 998391 appears nowhere on the invoices and is unsupported by any corrected invoice, credit note, or supplementary document. A taxpayer cannot recharacterize, after the fact and without documentary support, what it actually procured and claimed credit on. The classification on record stands, and Grounds of the appeal do not displace it. Other issue raised by him is that whether the joinery and carpentry work constitutes “construction of an immovable property” under Section 17(5), applying the tests recognized in Wework India Management (P.) Ltd. (AAAR, Karnataka). He submits that based on the physical reality on record, it applies. The Show Cause Notice records the specific, unrebutted factual finding that removal of the fixtures in question “causes damage to the asset”— the direct opposite of the Wework finding. No agreement, photograph, or technical assessment has been placed on record by the Appellant to displace that finding. The third issue raised by the Ld AR is that whether the Appellant's accounting treatment or alternative labeling of the expenditure as a "Revenue Expense" or "Furniture and Fixtures" can legally grant eligibility for input tax credit? Respondent's Submission: No. The Appellant's accounting treatment creates an inescapable legal trap that defeats their own claim. The Explanation tracking Section 17(5)(c) and (d) explicitly triggers the restriction on renovation, additions, or alterations “to the extent of capitalization”. The Appellant is trapped between two legally unsustainable accounting positions: If Capitalised (Blocked under Section 17(5)): If the expenditure was capitalised in the books—even under the ledger head "Furniture and Fixtures"—the restriction under Section 17(5) activates automatically by operation of the statutory text. If Treated as Revenue Expense (Disqualified under Section 16(1)): If the Appellant claims the expense

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was written off to the Profit & Loss (P&L) account because the premises are rented, they successfully escape the literal word "capitalisation" in the explanation, but they completely fail the threshold criteria to claim Input Tax Credit under Section 16(1). By declaring it a revenue expense, they admit the items are not "Capital Goods" under Section 2(19). They cannot be treated as "Inputs" under Section 2(59) either, because these materials have been permanently embedded into the showroom walls and floors, losing their independent identity as operational goods. He also submits whether the restriction under Section 17(5) applies only to original construction, so that post-completion interior finishing work falls outside its scope. Respondent's Submission: No. The Explanation to Section 17(5)(c)/(d) expressly extends the term “construction” to include “reconstruction, renovation, additions or alterations or repairs, to the extent of capitalization”—language directed precisely at work carried out after a structure already exists. The Appellant's own supplier classified the work as “building completion and finishing services,” which by definition follows the substantial completion of the civil shell. The timing of the work relative to the original construction does not remove it from the scope of Section 17(5). The fifth issue raised by him is that whether satisfaction of the general conditions in Section 16(2) is sufficient to entitle the Appellant to the credit, notwithstanding Section 17(5)? Respondent's Submission: No. Section 17(5) opens with a strict non-obstante clause — “Notwithstanding anything contained in sub-section (1) of section 16...” — and operates as an independent, overriding statutory block. Compliance with the documentary conditions in Section 16(2) is merely a threshold requirement for claiming input tax credit at all; it cannot override a substantive statutory block imposed by Section 17(5) once the services are shown to be for the finishing/alteration of an immovable property. Therefore, Ground D of the appeal does not advance the Appellant's case.

3.3 Another issue raised by him is that on whom does the burden lie to establish eligibility for the credit claimed, and has that burden been discharged. He submits that the burden lies heavily on the Appellant under Section 155 of the CGST/SGST Act, and it has not been discharged at any stage. Section 155 provides that where any person claims eligibility for input tax credit, the burden of proving such claim lies entirely on that person. The Appellant has placed only two annexures on record: the four bare tax invoices and the Wework India AAAR ruling. They have failed to produce their Fixed Asset Register (FAR), audited balance sheets, depreciation schedules, or a Chartered Accountant Certificate to prove how the expense was actually treated. They have also failed to produce any lease agreement, work orders, or site photographs to counter the Department's physical finding of structural damage upon removal. Any such documents were matters within the Appellant's own knowledge and possession at the relevant time and could have been produced before the Adjudicating Authority or the First Appellate Authority. The omission to produce readily available material, at successive opportunities, reinforces the absolute failure to discharge the statutory burden under Section 155. He prays that the appellate order be upheld and the appeals filed by the appellant should be rejected.

4.0 We have heard both sides in detail. The brief issue to be decided is that whether the appellant is entitled for ITC on the four invoices issued for 'Joinery and carpentry services (SAC Code 995476)' by their supplier of services for designing and making the interiors in their shop, which is further used for furtherance of their retail business of the sales of digital equipment and other taxable goods and services, or such input services are restricted under Section 17(5) of the CGST Act, 2017.

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4.1 We find that the SCN issued by the Deputy Commissioner does not raise any dispute about the classification of the services provided by the supplier of services. We find that once the classification of services at the supplier's end is not disputed, it cannot be raised now at this stage when the issue is only regarding availment of ITC at the buyer's end. We are not inclined to go into any such mere allegations which is beyond the scope of the SCN.

4.2 We find that the issue is only about the eligibility of input tax credit on the four invoices which are listed as below:

No.	Invoice No & Date	Description	Amount of GST (Rs)	
			CGST	SGST
1	01/2017-18 – 26-7-2017	Joinery and Carpentry Services & Painting Services	190678	190678
2	05/2017-18 – 28-9-2017	Joinery and Carpentry Services	160170	160170
3	02/2017-18 – 26-7-2017	Joinery and Carpentry Services	150540	150540
4	06/2017-18 – 28-9-2017	Joinery and Carpentry Services	60082	60082
		Totals	561470	561470

4.3 We find that these are service invoices which the appellant had procured for interior work of their new shops for their retail business. We find that the services of the Joinery and carpentry services and painting services is used in their shops acquired on rental basis for conducting their retail business for which they have also obtained GST Registration, so as to store and display their digital goods for retail sale. We find that such services are used for setting up wooden and glass shelves in the shop, which are required for the retail sales and furtherance of business. We find that the input credit is available to the appellant

under section 16 (1) of the CGST Act, 2017 as it is in direct relation to their furtherance of business.

4.4 We find that the allegation of the Revenue is that the services of joinery and carpentry and painting services fall under the SAC Group of Building completion and finishing services and as per the explanation to Section 17(5) (c) and (d). The relevant portion of the Section 17 (5) is reproduced herewith for ready reference,

> *Section 17 (5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:-*
>
> *(a) to (b) . . .*
>
> *(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;*
>
> *(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.*
>
> *Explanation 1.- For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;*
>
> *Explanation 2.- For the purposes of clause (d), it is hereby clarified that notwithstanding anything to the contrary contained in any judgment, decree or order of any court, tribunal, or other authority, any reference to "plant or machinery" shall be construed and shall always be deemed to have been construed as a reference to "plant and machinery";*

4.5 We find that in the explanation the term 'construction' includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property. Therefore, in the present case, if the appellant has not capitalised the CGST and SGST portion of the invoice in their books of accounts then they would be eligible for input tax credit, on such additions and alterations to the immovable property i.e. the shop which is their registered place of business.

4.6 In this regard, we find that the appellant has produced a CA certificate issued by M/s. Byju & Associates, Chartered Accountants, in respect of the above four invoices, wherein they have certified as below:

> *"On the basis of our examination of the records referred to above, and according to the information and explanations furnished to us, we hereby certify that:*
>
> *(a) The furnishing expenditure covered by the four tax invoices listed in Annexure - A has been capitalised in the books of account of the Company as Property, Plant and Equipment under the classification "Furniture and Fixtures", and not written off as revenue expenditure;*
>
> *(b) The Goods and Services Tax charged on the said invoices has NOT been included in, or added to, the cost of the said Fixed Assets;*
>
> *(c) The CGST and SGST components have been accounted for separately in the books of account as Input Tax Credit and have been availed as such in the returns filed under the GST law; and*
>
> *(d) No depreciation has been claimed on the said CGST and SGST components under any law for the time being in force.*

4.7 We find that the GST portion of the said invoices are excluded from claim of depreciation and is not capitalised in the books of accounts to that extent. Since the amount of GST is not capitalised, such amount of tax does not get covered under the restricted category of the Section 17(5) (d). Therefore, we find that the appellant is entitled to the input tax credit on such four invoices mentioned above, and are not barred from taking the input tax credit under Section 17(5) (d) of the CGST Act, 2017.

5.0 We therefore, pass the order as below:

ORDER

The impugned order of the JC (Appeals) is set aside and the appeals filed by the appellant is allowed with consequential relief.

[Order pronounced in open court]

Subramanya Rayaprol
Vice President

Ramamoorthi Sriram
Member (Technical)

Date: 16-10-2026

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