Goods and Services Tax Appellate Tribunal
Thiruvananthapuram

Division Bench Court No. I

Appeal/45/TVP/2026

[Arising out of Order-in-Appeal No. GSTA16/22 dated: 22.11.2022 of the Joint Commissioner of State Tax (Appeals), State GST Department, Kottayam]

ARATHY MOBILES, ETTUMANOOR ..... **Appellant**

Versus

COMMISSIONER OF STATE TAXES
KERALAM STATE ..... **Respondent**

for Appellant
Jash C James, 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. 19/TVP/KERALAM/2026

Date of Hearing: 08-10-2026
Date of Order 30-10-2026

Order per: Shri Ramamoorthi Sriram, Member (Technical)

1.0 The present appeals are directed against the Order-in-Appeal No. GSTA16/22 dated: 22.11.2022 of the Joint Commissioner of State Tax (Appeals), State GST Department, Kottayam

2.0 Brief Facts of the Case

1.1 M/s Arathy Mobiles (GSTIN 32AUZPS9572L1ZE) is a proprietary business entity engaged in the business of mobile phones and accessories thereof and

is a registered taxpayer

1.2 An adjudication order U/s 73 (9) of the GST Act against the appellant pertaining to the FY 2017-18 was passed by the State Tax Officer on the ground that they had claimed ITC in excess of the amount available in GSTR 2A for the period and that the excess claim of ITC has resulted in substantial reduction of tax in their outward tax liability

1.3 Appeal filed by the appellant against the said adjudication order was dismissed vide the impugned order in appeal.

1.4 Aggrieved by the above OIA, the appellant has filed this appeal before the Tribunal.

2. Grounds of appeal / Submissions of the Appellant

2.1 A supplier by name Red Marketing, Kuravilangad (GSTIN:32EQVPS7199B1Z4) has wrongly mentioned another taxpayers GSTIN while filing GSTR-1 in respect of the supplies effected to the appellant. This resulted in absence of such inward supplies from the GSTR-2A pertains to the said period/to the said tax invoices.

2.2 However, now the appellant is eligible for the ITC involved in the said tax invoices in the light of Circular No. 183/15/2022- GST/ dated 27.12.2022 issued by the Central Board of Indirect Taxes and Customs.

2.3 Since all the documentary evidences as insisted by Circular No. 183/15/2022-GST are produced herewith the appellant is totally eligible for the ITC denied through the Adjudication order.

2.4 Since the order levying tax itself is unsustainable demand of interest and penalty is also unfounded.

2.5 Shri Jash C James, Advocate emphasized these grounds during the hearing and requested that the matter may be considered on merits by the Tribunal which may kindly pass a suitable order after going through the documentary evidence now submitted by them in terms of Circular No. 183/15/2022-GST dated 27/12/2022. In the alternative, the matter may be remanded to the Appellate Authority for denovo consideration in terms of the above circular on the basis of the above documents.

3. Submissions of the AR / Revenue

Mr Mansur MI , learned AR submits that the Revenue has no objection to the matter being remanded to the Appellate Authority for denovo consideration as requested by the Appellant.

4 Discussions & Findings

4.1 We find that in the instant case, the subject matter of the dispute is squarely covered by Circular No. 183/15/2022-GST dated 27/12/2022 which has been issued as an advisory to the officers and trade in order to resolve the difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for FY 2017-18 and 2018-19.

4.2 We find that para 6 of the circular reads as follows:

These instructions will apply only to the ongoing proceedings in scrutiny/audit/ investigation, etc. for FY 2017-18 and 2018-19 and not to the completed proceedings. However, these instructions will apply in those cases for FY 2017-18 and 2018-19 where any adjudication or appeal proceedings are still pending.

4.3 We therefore find that the present dispute, pertaining to FY 2017-18 is squarely covered within the purview of the above circular. However, since the circular

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(27/12/2022) was issued after the conclusion of the adjudication (7/2/2022) and first appeal proceedings (22/11/2022) the benefit of the said circular could not be extended in the instant case.

4.4 Now that both the appellant and the respondent / revenue have mutually consented to have the matter examined denovo in terms of the above circular, we find it fit to remand the matter to the first appellate authority with a limited remit to examine the matter afresh in terms of the said circular and the documentary evidence produced and pass suitable orders within two months of the date of the receipt of this order.

5. In view of the discussions and findings as above, the following order is passed:

The OIA is set aside and the appeal is allowed by way of remand to the first appellate authority with a direction to consider the matter afresh in terms of the above circular and pass suitable orders within a period of three months from the date of uploading of this order on the GSTAT portal after following the principles of natural justice.

Order pronounced in open court on 30/10/2026

Subramanya Rayaprol
Vice President

Ramamoorthi Sriram
Member (Technical)

Dated: 30/10/2026

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