IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

THURSDAY, THE 2ND DAY OF JULY 2026 / 11TH ASHADHA, 1948

WP(C) NO. 42569 OF 2025

PETITIONER:

CLASSIC COLOURS,
KATTANAM, KAYAMKULAM, ALAPPUZHA, REPRESENTED BY ITS PROPRIETOR SRI. SUMESH SOMAN, PIN – 690 503.

BY ADVS.
SHRI.AJI V.DEV
SRI.H.ABDUL LATHIEF
SHRI.S.SAJEEVAN
SMT.VANDANA BHAT T.V.

RESPONDENTS:

1 THE STATE TAX OFFICER,
TAXPAYER SERVICES CIRCLE, HARIPAD, STATE GST DEPARTMENT, REVENUE TOWER, HARIPAD, PIN – 690 514.

2 THE STATE TAX OFFICER,
ARREAR RECOVERY, O/O THE JOINT COMMISSIONER, TAXPAYER SERVICES, STATE GST DEPARTMENT, B.S.N.L BHAVAN, HEAD POST OFFICE ROAD, ALAPPUZHA, PIN – 688 001.

3 THE CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS
REPRESENTED BY ITS CHAIRMAN,DEPARTMENT OF REVENUE, NORTH BLOCK, NEW DELHI, PIN – 110 001.

4 THE STATE OF KERALA,

REPRESENTED BY ITS SECRETARY, FINANCE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN – 695 001.

5 UNION OF INDIA,
REPRESENTED BY ITS SECRETARY (REVENUE), MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI, PIN – 110 001.

BY ADVS.
SHRI.P.R.SREEJITH
SHRI.JAYAKRISHNAN P.R., CGC

SHRI.SAJIN JACOB AMBAT, SR.G.P

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02.07.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner is a registered tax payer under the provisions of the CGST and SGST Act. This writ petition is submitted by the petitioner challenging Ext.P2 order passed under Section 73 of the CGST Act, by which, the Input Tax Credit claimed by the petitioner pertaining to the months of August, 2018 to March, 2019 was declined, on the reason that, the petitioner failed to submit the returns within the period stipulated in Section 16(4) of the CGST Act.

2. The case of the petitioner is that, it is entitled to get the benefit of input tax credit in the light of Section 16(5) of the CGST Act, as the petitioner had already submitted the returns before the cut off date under the said provision, which is 30.11.2021.

3. After hearing the learned counsel for the petitioner and the learned Government Pleader, I find that there is some force in the said submission. This is particularly because, in the order impugned in this case itself, it is clearly mentioned that the returns for the months of August, 2018 to

March, 2019 were submitted by the petitioner between the period from 06.12.2019 to 14.02.2020 respectively. Thus, it is evident that the returns were submitted within the cut off date contemplated under Section 16(5) of the Act and hence the petitioner is entitled to the benefit. This is particularly because, Section 16(5) there is a *non-obstante* clause, as regards Section 16(4) and therefore, once the tax payer submits the return within the cut off date contemplated under Section 16(5) of the Act, the time line in Section 16(4) loses its significance.

In such circumstances, this writ petition is disposed of quashing Ext.P2 with a direction to the 1st respondent to reconsider the matter and grant the benefits of Section 16(5) of the CGST Act, if it is otherwise entitled.

Sd/-

ZIYAD RAHMAN A.A.

JUDGE

DG/2.7.26

APPENDIX OF WP(C) NO. 42569 OF 2025

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE SHOW CAUSE NOTICE DATED 30.12.2023 ISSUED BY THE 1ST RESPONDENT
Exhibit P1(a)	TRUE COPY OF THE SUMMARY OF EXT.P1 SHOW CAUSE NOTICE ISSUED IN FORM GST DRC-01 UPLOADED ONTO THE PORTAL ON 08.01.2024
Exhibit P2	TRUE COPY OF ORDER DATED 16.5.2024 ISSUED BY THE 1ST RESPONDENT
Exhibit P3	TRUE COPY OF REVENUE RECOVERY NOTICE DATED 06.02.2025
Exhibit P4	TRUE COPY OF THE NOTIFICATION NO.9/2023-CT DATED: 31-03-2023
Exhibit P5	TRUE COPY OF THE NOTIFICATION NO.56/2023-CT/DATED 28-12-2023
Exhibit P6	TRUE COPY OF THE JUDGMENT IN M/S. BARKATAKI PRINT & MEDIA SERVICES VS. UNION OF INDIA & ORS REPORTED IN 2024 (9) TMI 1398