CNR : KLHC010540902026

2026:KER:54327

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

TUESDAY, THE 21ST DAY OF JULY 2026 / 30TH ASHADHA, 1948

WP(C) NO. 24898 OF 2026

PETITIONER:

JASEENA SADIK,
AGED 48 YEARS
W/O. SADIK A M, RESIDING AT PUTHENPARAMBIL,
NADACKAL P.O., ERATTUPETTA, KOTTAYAM, KERALA,
PIN - 686121

BY ADVS.
SRI.DHEERAJ KRISHNAN PEROT
SMT.FIDHA NAVAS
SMT.ARCHITA BAIJU PANICKER
SMT.LIBA L. BENSER
SMT.LAKSHMI KUNNATH

RESPONDENTS:

1 STATE TAX OFFICER,
TAXPAYER SERVICES CIRCLE, SGST DEPARTMENT, PALA,
KOTTAYAM DISTRICT, KERALA, PIN - 686575

2 DEPUTY COMMISSIONER (ARREAR RECOVERY)
OFFICE OF THE DEPUTY COMMISSIONER (ARREAR RECOVERY) 2ND
FLOOR, COLLECTORATE, KOTTAYAM, KERALA, PIN – 686002

BY ADV
SHRI.PAUL JOSE, G.P.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.07.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner is a registered tax payer under the provisions of the CGST/KGST Act. The challenge is raised against Ext.P5 order passed under Section 73 of the CGST Act, by which, the input tax credit claimed by the petitioner for the months of December 2017 and March 2018 was declined on the reason that, the petitioner failed to submit the return, within the period stipulated in Section 16(4) of the CGST Act. The challenge is raised mainly on the ground that, in the light of Section 16(5) of the CGST Act the petitioner is entitled to get input tax credit, as the said provision contemplates that, in case the tax payer is furnishing the returns before the cut off date contemplated therein namely, 30.11.2021, such tax payer would be entitled to claim input tax credit. In this case, it is discernible from Ext.P5 order itself that, the petitioner submitted the returns for the period December 2017 and March

2018 on 07.07.2019 and 22.11.2019 respectively and thus, it is within the cut off date contemplated under Section 16(5). Therefore, an interference is required.

Accordingly, this writ petition is disposed of quashing Ext.P5 assessment order and Ext.P4 recovery notice to the extent Ext.P5 declined the input tax credit for the month of December 2017 and March 2018, on the ground that the petitioner violated Section 16(4) of the CGST Act, with a direction to the Assessing Officer, to reconsider the matter and to grant the benefits of input tax credit in the light of Section 16(5) of the CGST Act, if the petitioner is otherwise entitled.

Sd/-
ZIYAD RAHMAN A.A.
JUDGE

scs

APPENDIX OF WP(C) NO. 24898 OF 2026

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE ORDER FOR CANCELLATION OF REGISTRATION DATED 25.01.2020
Exhibit P2	TRUE COPY OF THE SHOW CAUSE NOTICE DATED 21.04.2021
Exhibit P3	TRUE COPY OF THE REPLY LETTER FILED ON 12.11.2021
Exhibit P4	TRUE COPY OF THE RECOVERY NOTICE DATED 22.06.2026
Exhibit P5	TRUE COPY OF THIS ASSESSMENT ORDER DATED 24.06.2022
Exhibit P6	TRUE COPY OF THIS UNNOTIFIED SHOW CAUSE NOTICE DATED 11.12.2023 FOR THE FY 2018-19
Exhibit P7	TRUE COPY OF CBIC CIRCULAR NO. 237/31/2024-GST DATED 15.10.2024