



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 7217 OF 2026 (T-RES)

BETWEEN:

1. M/S JAHANPANA CLOTHING PRIVATE LIMITED
(A PRIVATE LIMITED COMPANY INCORPORATED
UNDER THE COMPANIES ACT, 1956)
REPRESENTED BY ITS DIRECTOR AND
AUTHORISED SIGNATORY
MR. MOHAMMED ISHAQ BUKHARI,
AGED ABOUT 44 YEARS
PHONE: 90003 26786
E-MAIL: ISHAQ@JAHANPANA.COM
GST REGISTRATION NUMBER: 29AADCJ4646B1ZO
MUNICIPAL NO. 128, COMMERCIAL STREET,
SHIVAJI NAGAR, BENGALURU URBAN,
KARNATAKA - 560 001

... PETITIONER

(BY SRI. SANTOSH SAGAR KAPILAVAI., ADVOCATE)

AND:

1. SUPERINTENDENT OF CENTRAL TAX,
RANGE DND1 NORTH DIVISION-1,
BANGALORE NORTH COMMISSIONERATE
E-MAIL: DND.1RANGE-CGSTBLR@GOV.IN
1ST FLOOR, HMT BHAVAN, BELLARY ROAD,
BENGALURU, KARNATAKA - 560 032

... RESPONDENT

(BY SRI. SHISHIRA AMARNATH., ADVOCATE)





THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH BY AN ORDER, WRIT, OR DIRECTION IN THE NATURE OF CERTIORARI, THE IMPUGNED ORDER-IN-ORIGINAL BEARING DIN 20240872MR00006176AB DATED 26.08.2024 PASSED BY THE RESPONDENT IN ANNEXURE A AS UNLAWFUL, ILLEGAL, ARBITRARY. AND ULTRA VIRES THE PROVISIONS OF CGST ACT, 2017, ALONG WITH ALL ATTENDANT AND CONSEQUENTIAL ACTIONS AND ETC.

THIS PETITION COMING ON FOR FRESH MATTERS LIST, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

ORAL ORDER

The petitioner has filed the present petition calling in question the validity of the Order-in-Original at Annexure-'A' dated 26.08.2024 as also the impugned Summary of Order at Annexure-'B' dated 28.08.2024. The petitioner has also sought for a direction to the respondents to reconsider the matter.

2. The petitioner submits that the Adjudicating Authority has declined the claim of Input Tax Credit (ITC) as being ineligible in contravention of Section 16(4) of the Central Goods and Services Tax Act, 2017 (for short 'CGST Act').



3. Learned counsel for the petitioner submits that the Order-in-Original is passed on 26.08.2024, wherein the claim of ITC has been made belatedly. However, it is pointed out that subsequently by virtue of insertion of sub-clause (5) to Section 16, which has come into effect from 16.08.2024 and the said provision operates with a *non obstante* clause, the petitioner would be entitled for claim of ITC as long as the returns are filed before 30.11.2021.

4. It is to be noticed that sub-clause (5) to Section 16 has been inserted by way of an amendment. Section 16(5) reads as hereunder:-

"16. Eligibility and conditions for taking input tax credit.

(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit



in any return under section 39 which is filed upto the thirtieth day of November, 2021."

5. Admittedly, the returns are filed on 28.11.2020 and relates to the period of three months from January to March 2020. In terms of Section 16(5), the petitioner would be entitled to claim ITC as long as the returns are filed within the cut-off date. In light of the undisputed facts as noticed above, the petitioner would be entitled to claim ITC.

6. The observations made in the order dated 11.03.2026 passed in W.P. No.6883/2026 at paras-4 to 6 are extracted hereinbelow:-

"4. Perused the Order-in-Original and Order-in-Appeal. The only ground on which steps were taken to deny ITC claim is that it was claimed beyond the period prescribed under Section 16(4). Section 16(4) and Section 16(5) of the CGST Act reads as hereunder:

"16. Eligibility and conditions for taking input tax credit.



(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the [thirtieth day of November] following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.

(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed upto the thirtieth day of November, 2021."

5. *It is pertinent to note that the Central Board of Indirect Taxes and Customs vide Circular No. 237/31/2024-GST dated 15.10.2024, issued to all Principal Chief Commissioners/Chief Commissioners/principal Commissioners/ Commissioners of Central Tax (All) and Principal Director General/Directors General (All) has clarified the issues regarding implementation of provisions of sub-section (5) and sub-section (6) in section 16 of CGST Act, 2017. The Circular clarifies that sub-section (5) of Section 16 has been inserted retrospectively with effect from 01.07.2017 vide Finance (No.2) Act, 2024, thereby overriding the earlier time restriction prescribed under*



sub-section (4) of Section 16 in respect of the financial years 2017-18, 2018-19, 2019-20 and 2020-21. Sub-section (5) to Section 16 was inserted by the Finance (No.2) Act, 2024, with retrospective effect from 01.01.2017. In pursuant thereof, the Ministry of Finance (Department of Revenue) Central Board of Indirect Taxes and Customs, issued Notification No.17/2024-Central Tax, dated 27.09.2024, followed by Circular No. 237/31/2024-GST dated 15.10.2024 providing clarification regarding the implementation of the said provision. The aforesaid legislative development by insertion of sub-section (5) to Section 16 through Finance (No.2) Act 2024, read with the clarification, affirms that claims of Input Tax Credit (ITC) availed through GSTR-3B returns filed up to 30th November 2021 shall be permissible. The relevant extract is reproduced hereunder:

"Reference is invited to sub-section (5) and sub-section (6) of section 16 of the Central Goods & Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") inserted in section 16 of the CGST Act, with effect from the 1st day of July, 2017, vide section 118 of the Finance (No. 2) Act, 2024, whereby the time limit to avail input tax credit under provisions of sub-section (4) of section 16 of CGST Act has been retrospectively extended in certain specified cases."



6. *It must be noticed that Section 16(5) was inserted by way of an amendment by Finance Act (No.2), 2024. The said clause is a non-obstante clause, as it states, "notwithstanding anything contained in sub-section (4)". If that were to be so, in light of the petitioner having claimed ITC with respect to the financial year 2018-19, by virtue of Section 16(5), petitioner's entitlement would be extended till 30.11.2021, whereas the return of the petitioner was filed on 28.10.2019. The return filed is within the extended time prescribed under Section 16(5)."*

7. In light of the said legal position, the order at Annexure-'A' dated 26.08.2024 and the Summary of Order at Annexure-'B' dated 28.08.2024 are set aside. The matter is remitted for reconsideration, taking note of the observations made above, including the observations made in the order dated 11.03.2026 passed in W.P.No.6883/2026.

8. Needless to state that the returns having been filed by the petitioner within the cut-off date as stipulated



under sub-clause (5) to Section 16 and relates to the period as mentioned therein, accordingly, the petitioner would be entitled for such claim. The respondent Authority to reconsider the matter and re-look into the claim of ITC in light of the observations made above and to re-adjudicate the matter. All other contentions are kept open.

Accordingly, the petition is ***disposed of.***

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

VGR