



2026:KER:6469

WP(C) No.46773 of 2025

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**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.**

**TUESDAY, THE 27<sup>TH</sup> DAY OF JANUARY 2026 / 7TH MAGHA, 1947**

**WP(C) NO. 46773 OF 2025**

**PETITIONER/S:**

**PHILIP THOMAS,  
AGED 73 YEARS  
IV/382, KADAYAICKAD, VELLAVOOR, KOTTAYAM, PIN - 686541**

**BY ADVS.  
SMT.K.KRISHNA  
SHRI.ACHYUTH MENON  
SHRI.JOY P.J.  
SHRI. V. HARISANKAR  
SMT.ANNA ANTO**

**RESPONDENT/S:**

- 1 STATE TAX OFFICER,  
SGST DEPARTMENT, 2ND FLOOR, CIVIL STATION, KOTTAYAM,  
PIN - 686002**
- 2 STATE TAX OFFICER,  
STATE GST DEPARTMENT, TAX PAYER SERVICES CIRCLE, 3RD  
FLOOR, REVENUE TOWER, CHANGANACHERRY, KOTTAYAM,  
PIN - 686101**
- 3 DEPUTY COMMISSIONER (ARREAR RECOVERY),  
STATE GST DEPARTMENT, SALES TAX COMPLEX, 2ND FLOOR,  
COLLECTORATE, KOTTAYAM, PIN - 686002**
- 4 STATE OF KERALA,  
REPRESENTED BY SECRETARY TO GOVERNMENT, TAXES DEPT.,  
GOVT. SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001**

**OTHER PRESENT:**

**SMT.RESHMITHA R CHANDRAN, G.P**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
27.01.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



## **J U D G M E N T**

The petitioner is a registered taxpayer under the provisions of CGST/SGST Act. The challenge raised in this writ petition is against Ext.P3 order passed under Sec.73 of CGST Act by which, the input tax credit was rejected on the reason that the petitioner failed to submit the returns for the month of March 2020 within the stipulated time period under Sec.16(4) of the CGST Act. The challenge is raised against Ext.P3 order mainly on the ground that, in the light of Sec.16(5) of the CGST Act, which is newly introduced, the petitioner is entitled to claim the input tax credit, in view of the fact that the petitioner submitted the return for the month of March 2020 within the cutoff date i.e, 30.11.2021, contemplated under Sec.16(5) of the Act.

2. After hearing the learned counsel for the petitioner and the learned Government Pleader, I find merits in the said submission. It is discernible from Ext.P3 order that, indeed, the petitioner submitted the returns on 02.11.2020 for the month of March 2020 in GSTR 3B. As per Sec.16(5), a tax payer who submits return on or before 30.11.2021 shall be entitled to claim input tax credit covered by the same. This is particularly because, Sec.16(5) starts with the wordings "*Notwithstanding anything contained in Sub Sec.4*". Therefore,



this would mean that, once the assessee satisfies the conditions in Sec.16(5), the timeline stipulated under Sec.16(4) loses its significance. Therefore, an interference is required.

Accordingly, this writ petition is disposed of, quashing Exts.P3 and P4 orders with a direction to the 2nd respondent to reconsider the matter and to grant the benefits under Sec.16(5) of the CGST Act, if the petitioner is otherwise entitled to the same. Necessary orders in this regard shall be passed within a period of three months from the date of receipt of copy of this judgment, after affording an opportunity of hearing to the petitioner.

Sd/-

**ZIYAD RAHMAN A.A.  
JUDGE**



**APPENDIX OF WP(C) NO. 46773 OF 2025**

**PETITIONER EXHIBITS**

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|-------------------|---|
| <b>Exhibit P1</b> | <b>COPY OF SHOW CAUSE NOTICE ISSUED BY THE 2ND RESPONDENT DTD. 15-05-2024</b>           |
| <b>Exhibit P2</b> | <b>COPY OF FORM GST DRC-06 ALONG WITH REPLY FILED BY THE PETITIONER DTD. 09-08-2024</b> |
| <b>Exhibit P3</b> | <b>COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DTD. 21-08-2024</b>                       |
| <b>Exhibit P4</b> | <b>COPY OF NOTICE ISSUED BY THE 3RD RESPONDENT DTD. 20-11-2025</b>                      |
| <b>Exhibit P5</b> | <b>COPY OF JUDGMENT IN WPC NO. 44849/2024 OF THIS HON'BLE COURT DTD. 17-12-2024</b>     |

**RESPONDENTS' EXHIBITS:NIL**

**TRUE COPY**

**P.A.TO JUDGE**