



2026:KER:24548

WPC.No.10329/26

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

**PRESENT**

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

**THURSDAY, THE 19<sup>TH</sup> DAY OF MARCH 2026 / 28TH PHALGUNA, 1947**

**WP(C) NO. 10329 OF 2026**

**PETITIONER:**

**M/S.WELCARE HOSPITALITY,  
NO 11/1202, SURYA COMPLEX, TB ROAD PALAKKAD,  
KERALA, REPRESENTED BY ITS MANAGING PARTNER - A V  
MANAF, PIN - 678 014.**

**BY ADVS. SRI.R.JAIKRISHNA  
KUM.NARAYANI HARIKRISHNAN  
SRI.C.S.ARUN SHANKAR  
SHRI.ANISH P.  
SHRI.AKHIL SHAJI  
SHRI.K.SURESH CHANDRAN**

**RESPONDENTS:**

- 1 STATE TAX OFFICER,  
FIRST CIRCLE, STATE GST DEPARTMENT, MINI CIVIL  
STATION,GST COMPLEX PALAKKAD, KERALA,  
PIN - 678 001.**
- 2 JOINT COMMISSIONER,  
STATE GST DEPARTMENT COMMERCIAL TAXES COMPLEX,  
PALAKKAD, KERALA, PIN - 678 001.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 19.03.2026, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**



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## **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.P1 order passed under Section 73 of the CGST Act by which the input tax credit claimed by the petitioner pertaining to the months of February, 2019 and 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 return 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 February, 2019 and



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March, 2019 were submitted by the petitioner on 16.11.2019 and 29.02.2020 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.P1 with a direction to the 1<sup>st</sup> 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/19.3.26



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**APPENDIX OF WP(C) NO. 10329 OF 2026**

**PETITIONER EXHIBITS**

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|-------------------|---|
| <b>Exhibit P1</b> | <b>A TRUE COPY OF THE ASSESSMENT ORDER ISSUED BY THE 1ST RESPONDENT DATED 25.11.2022</b>                |
| <b>Exhibit P2</b> | <b>A TRUE COPY OF THE FORM GST DRC-07 ISSUED BY THE 1ST RESPONDENT DATED 25.11.2022</b>                 |
| <b>Exhibit P3</b> | <b>A TRUE COPY OF THE RELEVANT EXTRACT OF THE FINANCE ACT, 2024 DATED 16.08.2024</b>                    |
| <b>Exhibit P4</b> | <b>TRUE COPY OF THE JUDGMENT ISSUED BY THIS HON'BLE COURT IN WP(C) 27738 OF 2024 DATED 23.10.2024</b>   |
| <b>Exhibit P5</b> | <b>A TRUE COPY OF THE JUDGMENT ISSUED BY THIS HON'BLE COURT IN WP(C) 41324 OF 2024 DATED 21.11.2024</b> |