



W.P.(C.) No. 45451 of 2025

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2025:KER:94740

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

THURSDAY, THE 4TH DAY OF DECEMBER 2025 / 13TH AGRAHAYANA,

1947

WP(C) NO. 45451 OF 2025

PETITIONER/S:

**PAZHASSI MOTORS,
PALLISSERY THALASSERY, KANNUR, REPRESENTED BY ITS
MANAGING PARTNER - GRACY GEORGE, PIN - 670101**

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

RESPONDENT/S:

- 1 STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT, FINANCE
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM
G.P.O., THIRUVANANTHAPURAM, PIN - 695001**
- 2 STATE TAX OFFICER,
1ST CIRCLE, STATE GOODS AND SERVICES TAX
DEPARTMENT, TB COMPLEX, THALASSERY, KANNUR, PIN -
670101**
- 3 DEPUTY COMMISSIONER (ARREARS RECOVERY)
TAX PAYER SERVICE CIRCLE KERALA STATE GST,**



W.P.(C.) No. 45451 of 2025

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ADDITIONAL CIVIL STATION KANNUR, PIN - 670002

SR.G.P

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04.12.2025, 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, 2017. The grievance of the petitioner is against Ext.P1 order of assessment pertaining to the year 2018-19, in which the input tax credit claimed by the petitioner was declined. The reason for rejecting the claim was that the petitioner failed to submit the returns pertaining to the months of May 2018 - March 2019 within the period stipulated under Section 16(4) of the CGST Act. The case of the petitioner is that, in view of Section 16(5), which was subsequently introduced in the CGST Act, the petitioner is entitled to get the input tax credit, in view of the fact that the petitioner had submitted the returns pertaining to the relevant period before the cut off date contemplated under Section 16(5) of the Act. It was in these circumstances that this writ petition was submitted.

2. I have heard Sri. Jaikrishna, the learned counsel for the petitioner, and Smt. Reshmitha R. Chandran, the learned Government Pleader for the respondents.

3. The learned Government Pleader pointed out that even going by the pleadings, the petitioner had earlier submitted a writ



petition, which was numbered as W.P.(C.) No.31219/2022, before this Court challenging the constitutional validity of Section 16(4) of the CGST Act, and as per the common judgment dated 04.06.2024, this Court rejected the said contention, and the writ petitions were dismissed. Therefore, it was pointed out that the petitioner cannot claim the relief in this writ petition without seeking the modification in the said judgment either by challenging or seeking review of the same.

4. However, after considering all relevant aspects, I am not inclined to accept the said contention. This is particularly because, the claim now raised by the petitioner is based on a statutory provision that was introduced later, and it specifically provides for input tax credit, subject to the condition that the returns are filed before the 30th day of November, 2021. Apart from the fact that the returns are to be filed within the said cut off date, no other conditions are imposed in Section 16(5), and it is also a relevant aspect to notice that Section 16(5) starts with the wording “notwithstanding anything contained in Subsection 4.” This would indicate that, once the tax payer submits the return within the period stipulated in Section 16(5), the time limit



contemplated under Section 16(4) of the CGST loses its significance. Therefore, this being a separate statutory provision subsequently introduced, it amounts to a fresh cause of action for the petitioner to claim the relief sought in this writ petition. Therefore, I find that, the fact that the petitioner had earlier approached this Court challenging Section 16(4) of the CGST Act and got an adverse order, cannot be a reason not to entertain this writ petition.

In such circumstances the petitioner is entitled to the benefit of Section 16(5), and hence an interference is required. Accordingly, this writ petition disposed of quashing Ext. P1, with a direction to the 2nd respondent to reconsider the matter and pass fresh orders, by giving the petitioner an opportunity to be heard. While passing the said order, the benefit of Section 16(5) shall be granted to the petitioner, if the petitioner is otherwise entitled to the same.

Sd/-

**ZIYAD RAHMAN A.A.
JUDGE**



APPENDIX OF WP(C) NO. 45451 OF 2025

PETITIONER EXHIBITS

Exhibit P1	A TRUE COPY OF THE ASSESSMENT ORDER ISSUED BY THE 2ND RESPONDENT DATED 15.07.2022
Exhibit P2	A TRUE COPY OF THE SUMMARY OF ORDER IN FORM GST DRC-07 ISSUED BY THE 2ND RESPONDENT DATED 16.07.2022
Exhibit P3	. A TRUE COPY OF THE RELEVANT EXTRACT OF THE FINANCE ACT 2024
Exhibit P4	A TRUE COPY OF THE JUDGMENT ISSUED BY THIS HON'BLE COURT IN WP(C) 27738 OF 2024, ON 23.10.2024
Exhibit P5	A TRUE COPY OF THE JUDGMENT ISSUED BY THIS HON'BLE COURT IN WP(C) 41324 OF 2024
Exhibit P6	A TRUE COPY OF THE RECOVERY NOTICE ISSUED BY THE 3RD RESPONDENT DATED 27.10.2025
Exhibit P7	TRANSLATION / TYPED COPY OF EXT P6