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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ZIYAD RAHMAN A.A.

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2026 / 22ND MAGHA, 1947

WP(C) NO. 21609 OF 2024

PETITIONER/S:

M/S. PINNACLE MOTOR WORKS PRIVATE LIMITED,
DOOR NO 55/1192-8(OLD 13/1-55),
GURUVAYOOR ROAD, PUZHAKKALPADAM,
AYYANTHOLE, THRISSUR,
REPRESENTED BY ITS DIRECTOR MR. GAABI GAFOOR,
PIN - 680003

BY ADVS.
SMT.AMMU CHARLES
SRI.K.SRIKUMAR (SR.)

RESPONDENT/S:

- 1 DEPUTY COMMISSIONER (ADJUDICATION),
OFFICE OF JOINT COMMISSIONER OF STATE TAX TAXPAYER
SERVICES, STATE GOODS AND SERVICES TAX DEPARTMENT,
POOTHOLE P.O., THRISSUR, PIN - 680004
- 2 SUPERINTENDENT OF CENTRAL TAX & EXCISE,
CENTRAL TAX AUTHORITY, AMBALLUR RANGE,
1ST FLOOR, KOOVAKKADEN ARCADE, NH ROAD,
AMBALLUR, THRISSUR, PIN - 680301
- 3 STATE TAX OFFICER,
TAXPAYER SERVICES CIRCLE, SGST,
MANNUTHY, STATE GST COMPLEX, POOTHOLE,
THRISSUR, PIN - 680004
- 4 STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001



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5 ADDL.R5.GOODS AND SERVICES TAX NETWORK PVT. LTD
WORLD MARK-1, AEROCITY, NEW DELHI, REPRESENTED BY
ITS MANAGING DIRECTOR. (ADDL.R5 IMPEADED VIDE
ORDER DATED 03-10-2024 IN IA 1/24 IN WP(C21609/24)

BY ADVS.

SMT.PREETHA S.NAIR

SMT.PREETHA S. NAIR, SC, CENTRAL BOARD OF EXCISE
AND CUSTOMS

SHRI.V.GIRISHKUMAR, SC, CENTRAL BOARD OF INDIRECT
TAXES AND CUSTOMS

OTHER PRESENT:

SMT.RESHMITHA R CHANDRAN, SR.G.P

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11.02.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



JUDGMENT

The petitioner is a private limited company and is a registered taxpayer under the provisions of the CGST/SGST Act. The dispute in this case pertains to the denial of transitional credit under Section 140 of the CGST Act, in relation to the Input Tax Credit available to the petitioner under the Kerala Value Added Tax Act and the Central Sales Tax Act. As per Section 140 of the CGST Act, the petitioner had earlier submitted applications in TRAN-1 and TRAN-2, seeking the carry forward of the said claim to the CGST regime on 27.12.2017. In the TRAN-1 filed in the year 2017, the petitioner claimed an amount of Rs.88,04,678.87/- as the amount available to its credit which is to be carried forward to the CGST regime.

2. Later, owing to various discrepancies in submitting the TRAN-1 and TRAN-2 applications by the taxpayers across the country, the Honourable Supreme Court, passed a judgment in SLP(C) No.32709-32710/2018, permitting the taxpayers to revise the TRAN-1/TRAN-2 on or before 30.11.2022. According to the petitioner, as they omitted certain amounts in TRAN-1



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earlier submitted, they submitted a revised TRAN-1 and TRAN-2, on 29.10.2022. In the TRAN-1 application so submitted, the credit shown was Rs.6,84,886/- and in TRAN-2 the figure shown was nil.

3. According to the petitioner, while submitting the revised TRAN-1 and TRAN-2 applications in the year 2022, they were under the impression that, a revised TRAN-1/TRAN-2 were required to be submitted for any additional claim to be put forward, other than the claim already made as per the earlier applications. It was in those circumstances, in TRAN-1, the additional amount was shown as Rs.6,84,886/- without showing the earlier figure of Rs.88,04,680/- and in TRAN-2, the amount was shown as nil, whereas the amount shown as per the earlier TRAN-2 was Rs.2,01,681/-.

4. However, after processing TRAN-1 and TRAN-2, the officer concerned rejected the claim as per Ext.P2 order, on the reason that the petitioner failed to produce necessary invoices to substantiate the said claim. In the said order, there was a reference to the amounts mentioned in the earlier TRAN-1 and



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TRAN-2 applications, and it was also informed that an assessment for the amounts referred to in the said applications would be made.

5. Even though Ext.P2 was challenged by the petitioner before this Court by filing W.P.(C) No.34974/2023, the said challenge was not entertained and the writ petition was dismissed as per Ext.P3 judgment. Subsequently, an assessment was carried out and as part of the same, Ext.P4 order was passed under Section 73(9) of the CGST Act in respect of the amounts covered by TRAN-1 and TRAN-2 submitted in 2017. In response to the show cause notice issued prior to Ext.P4, the petitioner submitted a reply highlighting the circumstances under which it happened to file, the modified TRAN-1 and TRAN-2, without referring to the figures included in the TRAN-1 and TRAN-2 submitted in the year 2017. However, as per Ext.P4, the contentions of the petitioner were rejected, and the assessment was made by denying the credit of Rs.88,04,680/- availed by the petitioner in TRAN-1 and Rs.2,01681/- availed by the petitioner in TRAN-2 submitted in



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the year 2017. This writ petition is submitted by the petitioner challenging Ext.P4.

6. A detailed counter affidavit has been submitted by the respondents disputing the contentions raised by the petitioner and also opposing the reliefs sought. It was pointed out that, in the light of the TRAN-1 and TRAN-2 submitted in the year 2022, the claim of amounts covered by the earlier TRAN-1 and TRAN-2 applications got effaced and therefore, the credit already availed by them as per the same is a wrongful availment of the credit, which has to be recovered from the petitioner.

7. I have heard Smt.Ammu Charles, the learned counsel for the petitioner and Smt. Resmitha R Chandran, the learned Government Pleader for the respondents.

8. The learned Government Pleader vehemently opposed the maintainability of the writ petition, in view of the fact that the petitioner did not avail the statutory remedy. It is pointed out that, Ext.P4 order was passed as early as on 26.12.2023, and the writ petition was filed on 14.06.2024, which is after the period of limitation contemplated under



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Section 107 of the CGST Act for filing an appeal. It is also contended that the contentions raised by the petitioner are to be considered by the statutory appellate authority and the same cannot be invoked in a writ petition. To substantiate her contention with regard to the maintainability of a Writ Petition after the expiry of the period for filing an appeal, the decision of a Division Bench of this Court in **S.K. Eldhose v. State Tax Officer, Muvattupuzha and Others** [2024] 129 GSTR 507 (Ker), was relied on.

9. However, on going through the records, I find that the contention of the petitioner is with regard to a *bonafide* omission made by it, while submitting revised TRAN-1 and TRAN-2 in the year 2022, in the light of the directions of the Honourable Supreme Court. A clear explanation is offered by the petitioner, in the reply to the show cause notice issued before Ext.P4, which is to the effect that, the petitioner, while submitting the revised TRAN-1 and TRAN-2, was under the impression that, the same are necessitated for making additional claims. Thus, they also sought permission to carry



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out the correction in the revised TRAN-1 and TRAN-2 applications, as they realized this mistake upon receipt of the show cause notice. Thus, the contention that essentially to be taken into account in this writ petition relates to the permission for the correction of TRAN-1 and TRAN-2 applications. As far as the said relief is concerned, that is something beyond the powers of the statutory authorities under the CGST Act, whether it is an assessing authority or appellate authority. Going by the nature of the relief that is sought, and the reasons for seeking such reliefs, it is beyond the scope of the powers of a statutory authority and it is something that can be considered by this Court alone, under Article 226 of the Constitution of India. Therefore, I am of the view that, the fact that the petitioner did not avail the statutory remedy, within the time stipulated, by itself, cannot be a ground to hold that the writ petition is not maintainable. This is because, for the reasons mentioned above, the statutory remedy available to the petitioner is not effective. This is a crucial distinction that has to be drawn from the factual circumstances under which, this Court considered the case in



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S.K Eldhose's case (supra). Therefore, I find that the observation in the said judgment cannot be made applicable to the peculiar facts and circumstances of this case.

10. Now, when it comes to the merits of the contentions, it is to be noted that, even going by Ext.P4 order, it is evident that, the verification of the claim of credit as made in TRAN-1 application submitted by the petitioner in the year 2017, was done and the same was specifically referred to in Ext.P4 order. As per the verification report of the Central Tax Authority, out of Rs.88,04,680/- availed by the petitioner as credit as per the original TRAN-1 filed, the petitioner was found eligible for Rs.69,31,718.31/-. Thus, as far as the credit available to the petitioner as per the earlier regime is concerned, the same was verified by the competent authority and found that their eligibility is up to Rs.69,31,718/-. Thus, there is *prima facie* finding in their favour at least to that effect.

11. However, while adjudicating the aforesaid claim in the light of the aforesaid report, the assessing authority found that, since the transitional credit claimed in the revised TRAN-1



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application is only Rs.6,84,886, that nullifies the original credit taken at the rate of Rs.88,04,678/- as per the earlier Tran -1. It was only because of that reason, the claim of the petitioner with regard to the transitional claim originally made as per TRAN-1 filed in the year 2017 was declined.

12. Thus, it is a fact that, at least up to an extent of Rs.69,31,718/- was found to be acceptable on verification, even though the final adjudication on the same is to be made by the assessing authority. It is also evident from the records that, a clear explanation has been given by the petitioner as to the circumstances under which the revised TRAN-1 and TRAN-2 applications were submitted, without referring to the figures referred to in the original TRAN-1 and TRAN-2 applications. As observed above, according to the petitioner, while submitting the revised TRAN-1 and TRAN-2 applications, they were under the impression that the same was intended only for additional claims and the amounts already specified in the earlier application need not be referred to therein. The said explanation appears to be possible in view of the fact that, in



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the TRAN-1 application, instead of showing the earlier figure of Rs.88,04,680/- they had shown the figure of Rs 6,84,886/-, which is the additional claim of the petitioner. At the same time, in TRAN-2 application the credit claimed was nil, whereas, the credit availed by the petitioner in the TRAN-2 application earlier submitted was Rs.2,01,681/-. This would indicate that there occurred a *bonafide* mistake, while submitting the revised TRAN-1 and TRAN-2 applications. It is to be noted in this regard that, under normal circumstances, it is highly improbable that, a person would intentionally mention a lesser figure in the revised TRAN-1 and TRAN-2, than mentioned in the original one, particularly when the amounts in the earlier applications were much higher. Since this is a case in which, denial of an opportunity to rectify the mistake would result in double taxation, I am of the view that a lenient view has to be taken.

13. Of course, the learned Government Pleader stoutly opposed any interference by this Court in the order passed by pointing out that, this is a mistake solely attributable to the petitioner and therefore, no interference is required in Ext.P4.



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However, I am of the view that, when it comes to a case where no evasion of tax is alleged, a liberal approach has to be taken by this Court, as far as the question of invocation of jurisdiction under Article 226 of Constitution of India, is concerned. Thus, as observed above, it was a mistake on the part of the petitioner while submitting the TRAN-1 and TRAN-2 applications in the year 2022 and the Central Tax Authority already verified the claim of the petitioner and found that at least to the extent of Rs.69,31,718/- is acceptable. In such circumstances, some interference is required, in order to enable the petitioner to have a further opportunity to substantiate its claims.

Accordingly, this writ petition is disposed of, quashing Ext.P4 and consequential ExtP5 demand notice, with a direction to the 3rd respondent to reconsider the matter. In the meantime, the additional 5th respondent is directed to permit the petitioner to rectify the TRAN-1 and TRAN-2 applications by incorporating the transitional credit claimed in TRAN-1 and TRAN-2 applications submitted in the year 2017. Such permission shall be granted to the petitioner within a period of



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one month from the date of receipt of a copy of this judgment and upon being granted permission, the petitioner shall carry out the corrections and submit a revised TRAN-1 and TRAN-2 applications without any delay. Thereafter, the 3rd respondent shall reconsider the matter and pass fresh orders in accordance with law, after giving the petitioner an opportunity for being heard and for the production of the documents, which are necessary to adjudicate the claim of credit of the petitioner based on the such revised TRAN-1 and TRAN-2 applications. A decision as mentioned above shall be taken by the competent authority within a period of three months from the date of submission of the revises TRAN-1 and TRAN-2, by the petitioner, as referred to above.

Sd/-

ZIYAD RAHMAN A.A.
JUDGE

rpk



APPENDIX OF WP(C) NO. 21609 OF 2024

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE RTI REPLY DATED 25.03.2024 RECEIVED BY THE PETITIONER FROM THE ASSISTANT COMMISSIONER OF CENTRAL TAX AND EXCISE, CHALAKUDY
- Exhibit P2 TRUE COPY OF THE ORDER DATED 20.02.2023 PASSED BY THE 3RD RESPONDENT
- Exhibit P3 TRUE COPY OF THE JUDGMENT DATED 25.10.2023 IN WP 34974/2023 OF THIS HONORABLE COURT
- Exhibit P4 TRUE COPY OF THE ASSESSMENT ORDER NO. 32AAGCP8098L1ZT/2017-2018 PASSED BY THE 1ST RESPONDENT DATED 26.12.2023
- Exhibit P5 TRUE COPY OF THE REVENUE RECOVERY NOTICE NO..AR/GST/32AAGCP8098 L1ZT / 40 /2024-25 DATED 24.05.2024
- Exhibit P6 TRUE COPY OF THE SCREENSHOT OF GSTN PORTAL

RESPONDENT EXHIBITS

- Exhibit R1(a) True copy of the TRAN-1 application dated 27.12.2017
- EXHIBIT R1 (d) True Copy of the revised TRAN-1 and TRAN-2 dated 29.10.2022
- Exhibit R1(b) True copy of the TRAN-2 application dated 29.06.2018
- Exhibit R1(c) True copy of circular No.180/12/2022-GST dated 09.09.2022