



2026:KER:42797

WPC.No.20408/26

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

TUESDAY, THE 16TH DAY OF JUNE 2026 / 26TH JYAISHTA, 1948

WP(C) NO.20408 OF 2026

PETITIONER:

**M/S.DEEPAM PALM DISH, TC 10/780, SEMITHERI ROAD,
PULLAZHI (P.O), OLARI, THRISSUR- REPRESENTED BY ITS
MANAGING PARTNER T.K. RAJESH KUMAR, PIN - 680 012.**

**BY ADVS. SMTG.MINI(1748)
SHRI.A.KUMAR (SR.)
SHRI.P.J.ANILKUMAR
SHRI.P.S.SREE PRASAD
SHRI.SATYAJITH K. WARRIER**

RESPONDENTS:

- 1 STATE TAX OFFICER,
STATE GOODS AND SERVICES TAX DEPARTMENT, OFFICE OF
THE STATE TAX OFFICER, 3RD CIRCLE, GST COMPLEX,
POOTHOLE, THRISSUR, PIN - 680 004.**
- 2 JOINT COMMISSIONER (APPEALS),
OFFICE OF THE JOINT COMMISSIONER (APPEALS), STATE
GOODS AND SERVICES TAX DEPARTMENT, 3RD FLOOR, STATE
GST COMPLEX, POOTHOLE, THRISSUR, PIN - 680 004.**
- 3 COMMISSIONER OF STATE TAX, STATE GOODS AND SERVICES
TAX DEPARTMENT, THIRUVANANTHAPURAM, PIN - 695 002.**

SHAIJ RAJ.T.K-GP

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16.06.2026, 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.P4 order passed under Section 73 of the CGST Act by which the input tax credit claimed by the petitioner pertaining to the months of April, 2018 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 April, 2018 and March, 2019 were submitted by the petitioner on 15.02.2021 and 27.02.2021



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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.P4 with a direction to the 1st 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/16.6.26



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APPENDIX OF WP(C) NO. 20408 OF 2026

PETITIONER EXHIBITS

- Exhibit P1** TRUE COPY OF THE FORM GST ASMT-10 DATED 02.02.2021 ISSUED BY THE 1ST RESPONDENT.
- Exhibit P2** TRUE COPY OF THE SHOWCAUSE NOTICE DATED 26.09.2022 ISSUED U/S 73(1) BY THE 1ST RESPONDENT
- Exhibit P2(a)** TRUE COPY OF THE SUMMARY OF THE SHOWCAUSE NOTICE DATED 26.09.2022 IN FORM GST DRC-01
- Exhibit P3** TRUE COPY OF THE REPLY DATED 04.11.2022 FILED BY THE PETITIONER
- Exhibit P4** TRUE COPY OF THE ORDER NO.32AAMFD8460H1ZC/2018-19 DATED 05.11.2022 ISSUED BY THE 1ST RESPONDENT.
- Exhibit P4(a)** TRUE COPY OF THE SUMMARY OF THE ORDER IN DRC-07 BEARING REFERENCE NUMBER ZD321122004618Y DATED 05.11.2022 ISSUED BY THE 1ST RESPONDENT.
- Exhibit P5** TRUE COPY OF THE APPEAL ALONG WITH STATEMENT OF FACTS AND GROUNDS OF APPEAL IN FORM GST APL-01 DATED 15.02.2023 FILED BY THE PETITIONER.
- Exhibit P6** TRUE COPY OF THE ORDER-IN-APPEAL NO.AD3202230023710 DATED 30.03.2024 ISSUED BY THE 2ND RESPONDENT.
- Exhibit P7** TRUE COPY OF THE JUDGMENT IN WPC NO. 45451/2025 DATED 04.12.2025 OF THIS HON'BLE COURT.
- Exhibit P8** TRUE COPY OF THE JUDGMENT IN WPC NO.6771/2026 DATED 26.02.2026 OF THIS HON'BLE COURT.