CNR : KLHC010167062026

2026:KER:57133

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

TUESDAY, THE 28TH DAY OF JULY 2026 / 6TH SRAVANA, 1948

WP(C) NO. 7801 OF 2026

PETITIONER/S:

M/S. WILD PLANET PVT LTD.,
18/833 A, HOTEL JAYA COMPLEX, THALI, KOZHIKODE
REP. BY DIRECTOR: RATHEESH P.
PIN - 673002

BY ADVS.
SHRI.P.RAGHUNATHAN
SMT.M.SHYLAJA
SHRI.RISHAL.K

RESPONDENT/S:

1 THE SUPERINTENDENT,
CENTRAL TAX & CENTRAL EXCISE: KOZHIKODE RANGE II:
CR BUILDING, KOZHIKODE, PIN - 673001

2 THE ASSISTANT COMMISSIONER,
CENTRAL TAX & CENTRAL EXCISE: KOZHIKODE URBAN
DIVISION: KOZHIKODE, PIN - 673001

BY ADV SHRI.J.VISHNU, ADDITIONAL STANDING COUNSEL,
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS
(ERSTWHILE CENTRAL BOARD OF EXCISE AND CUSTOMS)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28.07.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner is aggrieved by Ext.P1 order passed under Section 73 of the CGST Act, by which, the Input Tax Credit claimed by the petitioner was declined, on the reason that, the petitioner failed to submit the returns for the months of January to March 2010, within the time stipulated under Section 16(4) of the CGST Act. The challenge is raised by the petitioner mainly relying upon Section 16(5) of the CGST Act, that provides that, in case the petitioner had submitted the returns within the cut off date contemplated therein i.e, on or before 31.11.2021, the petitioner would be entitled to claim the Input Tax Credit.

2. The learned Standing Counsel appearing for the respondents pointed out that Ext.P1 is an order passed as early as on 18.06.2024 and the time for submitting a rectification application as per the Circular issued by the Central Board of Indirect Taxes, is already expired on 30.06.2025. Therefore the petitioner cannot claim the said benefit.

3. However, after carefully going through the records, I am of the view that, merely because of the reason that the petitioner did not submit a rectification application within the time specified above, his claim need not be rejected. This is particularly because, as far as the right to claim the Input Tax Credit under Section 16(5) of the Act is concerned, it is a statutory entitlement, and it is a provision introduced retrospectively. Therefore, merely because, there occurred some delay on the part of the petitioner, that statutory benefit, which the petitioner is otherwise entitled, need not be declined. In this case, it is discernible from Ext.P3 show cause notice itself that, the petitioner had submitted the returns for the month of January to March 2020 on 25th December 2020 and 29th December 2020. Thus, the same was submitted within the time stipulated under Section 16(5) of the CGST Act. In such circumstances, the petitioner is entitled to the benefit.

Accordingly, this writ petition is disposed of, quashing

Ext.P1, with a direction to the Assessing Authority to reconsider the matter and to grant the Input Tax Credit in the light of Section 16(5) of the CGST Act, if the petitioner is otherwise entitled.

Sd/-

ZIYAD RAHMAN A.A.
JUDGE

rpk

APPENDIX OF WP(C) NO. 7801 OF 2026

PETITIONER EXHIBITS

Exhibit P-1	**TRUE COPY OF ORDER DT. 18.06.2024 FOR 2019.20**
Exhibit P-2	**TRUE COPY OF THE ARREAR NOTICE DATED 02.02.2026**
Exhibit P-3	**TRUE COPY OF THE SHOW CAUSE NOTICE DATED 10.11.2023**
Exhibit P-4	**TRUE COPY OF THE JUDGMENT IN ASKAR ALI VS. SUPERINDENT: CENTRAL GST: PERINTALMANNA RANGE – WPC NO. 45346/2025 DT. 04.12.2025**