



# Lawgics

By Nidhi, Advocate



**Judgment No.: 018**  
**Dt.: 24-11-2023**



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## Judgment Deals With

<b>Section/Rule</b>	Section 16
<b>Authority</b>	Kerala High Court
<b>Case Name</b>	Raju Joseph VS State Tax Officer
<b>Dated</b>	31 <sup>st</sup> October, 2023

### Brief Facts:

The impugned orders dated 14.06.2023 and 16.06.2023 were passed on the ground that the petitioner has availed excess input tax credit as there is the difference between Form GSTR-2A and Form GSTR-3B for the tax period 2017-18.

### Contention of Petitioner:

CBIC considered the difficulties faced by the assessee in the initial year in respect of difference in input tax availed in Form GSTR 3B as compared to that received in form GSTR 2A for the financial year 2017- 18 and 2018-19 and has issued clarification vide Circular No.183/15/2022-GST dated 27.12.2022, and it has been said that where the supplier has filed GSTR-1 as well as return in Form GSTR-3B for a tax period, but has declared the supply with the wrong GSTIN of the recipient in Form GSTR-1, the difference regarding the input tax credit claimed by the recipient dealer in its Form GSTR-3B, but it is not reflected in Form GSTR-2A because of the wrong GSTIN of the recipient, the procedure has to be followed as per the Circular dated 27.12.2022.

The Circular would be applicable in respect of bona fide errors committed in reporting during financial years 2017-18 and 2018-19 and the guidelines issued for reconciliation of the input tax credit claimed in GSTR-3B and as reflected in GSTR-2A are clarificatory in nature and may be applied to the facts and circumstances of each case.

### Findings & Order:

Merely on the ground that in Form GSTR-2A the said tax is not reflected should not be a sufficient ground to deny the assessee the claim of the input tax credit. The assessing authority was directed to give an opportunity to the petitioner to give evidence in respect of his claim for input tax credit. The assessing authority will pass a fresh order in accordance with law.

The impugned orders dated 14.06.2023 and 16.06.2023 were set aside. The matter was remitted back to the Assessing Authority to reconsider the case of the petitioner irrespective of the Form GSTR-2A for the petitioner's claim of the input tax credit.

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