



# Lawgics

By Nidhi, Advocate



**Judgment No.: 095**  
**Dt.: 23-03-2024**



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## Judgment Deals With

<b>Section/Rule</b>	Section 73
<b>Authority</b>	Kerala High Court
<b>Case Name</b>	M/s. Philips Auto Agencies (India) Pvt. Ltd. VS State Tax Officer
<b>Dated</b>	07 <sup>th</sup> March, 2024

### Brief Facts:

The petitioner was aggrieved by the fact that he has been denied Input Tax Credit in the assessment of GST for the year 2018-19. The denial of ITC was on account of mismatch between GSTR-2A and GSTR-3B.

### Contention of the Petitioner:

GSTR-2A was introduced only in the month of September 2018 and therefore, the ITC could not have been denied on account of such mismatch. In terms of Section 73(3) of the GST Act, 2017, the statement of mismatch should have been provided to the assessee and this has not been done. If such a statement had been provided, the petitioner would have been able to substantiate its claim for Input Tax Credit in terms of Circular No183/15/2022-GST dated 27.12.2022.

### Findings & Decision of the Court:

The claim of the petitioner can be directed to be reconsidered by the Assessing Authority, having regard to the provisions of the Circular dated 27.12.2022.

If the petitioner requests for a statement in terms of the provisions contained in Section 73(3) of the GST Act, the same should also be provided to him.

Therefore, the order of assessment for the year 2018-19 was quashed and the matter was remitted to the Department for fresh consideration. The Department shall consider the claim of the petitioner as directed above also keeping in mind in terms of the Circular dated 27.12.2022 and after affording an opportunity of hearing to the petitioner.

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