



Lawgics

By Nidhi, Advocate



Judgment No.: 103
Dt.: 04-04-2024



<https://chat.whatsapp.com/Ie4VxuhvToe76Us7e5>

CLICK TO JOIN
WHATSAPP GROUP

Judgment Deals With

Section/Rule	Section 61
Authority	Kerala High Court
Case Name	M Trans Corporation VS The State Tax Officer
Dated	21 st March, 2024

Brief Facts of the Case:

The petitioner filed returns under the provisions of the GST Act pertaining to the year 2017-18. The show cause notice was issued to the petitioner in Form GST ASMT-10 dated 02.08.2020 and show cause notice dated 10.11.2022 followed. The petitioner filed the reply to the said Show Cause Notice, however, the Assessing Authority rejected the contention of the petitioner and found that the petitioner had availed excess input tax credit in the F.Y. 2017-18. The petitioner has been directed to pay the tax, interest and penalty etc.

Contention of the Petitioner:

The petitioner instead of claiming the CGST/SGST claimed IGST and it was a bonafide mistake committed by the petitioner. Therefore, for this bonafide mistake, disallowance of the input tax credit does not appear to be correct. The petitioner placed reliance on the Judgment of the Karnataka High Court in M/s. Orient Traders v. The Deputy Commissioner of Commercial Taxes & Another, that for bonafide mistake the assessee should not be punished and the ITC claimed wrongly availed as IGST instead of CGST should be allowed.

Findings & Decision of the Court:

Section 54 read with Section 49 prescribes for refund of excess tax etc., paid by the registered dealer by moving an application within the period of 2 years from the last date of filing the returns for the relevant year.

In the present case, the financial year is of 2017- 18 for which the due date for filing the application for correcting the mistake or claiming the refund of the IGST was 23.04.2019. The petitioner did not move any application within such time.

The Court, in exercise of its limited jurisdiction cannot amend the statute, prescribes different time limit for moving such an application and, therefore, the writ petition was dismissed.