



# Lawgics

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Judgment No.: 166  
Dt.:12-08-2024



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## Judgment Deals With

**Assessment order rejecting claim for ITC on grounds of violation of Section 16(2)(c) was set aside as supplier had paid tax collected to government, though after the prescribed time.**

Section/Rule	Section 16(2)(c)
Authority	Kerala High Court
Case Name	M/s. Super Decor Vs Deputy Commissioner Of State Tax
Dated	27 <sup>th</sup> June, 2024
Citation	WP(C) No. 23062 of 2024

### Brief facts of the case:

The Department issued the assessment order rejecting the petitioner's claim of input tax credit on the ground that the claim is in violation of Section 16(2)(c) of the KSGST Act. The petitioner has filed this writ petition challenging the assessment order and the recovery notice.

### Contention of the Petitioner:

At the time of reply to the show cause notice, the petitioner had brought it to the notice of the assessing authority that the supplier had paid the amounts collected from the petitioner to the Government and the petitioner had also produced the CA certificate along with confirmation letter and the copies of the invoice issued by the seller to the petitioner in support of his contention that the tax collected by the seller has been remitted to the Government, though beyond the prescribed time. The petitioner refers to Circular Nos. 183/15/2022-GST dated 27.12.2022 and 193/05/2023-GST dated 17.07.2023 and the judgment dated 04.06.2024 in W.P.(C) No.31559 of 2019 bearing case title M. Trade Links v. Union of India.

Pursuant to assessment order, the petitioner has been served with notice for recovery of the disallowed ITC. The petitioner has also sought for a declaration that the denial of claim of input tax credit of the petitioner is unsustainable.

### Findings & Decision of the Court:

In the light of the judgment in M. Trade Links (supra) and the Circular Nos. 183/15/2022-GST dated 27.12.2022 and 193/05/2023-GST dated 17.07.2023, the assessment order was set aside.

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