Retrospective Benefit Of Input Tax Credit (ITC) U/S 16(5) Vs. Section 16(4) Time Limits:

Case Reference:

Excel Polymers vs. State Tax Officer - WP(C) NO. 21324 OF 2026 – High Court of Kerala

(Date of Judgement – 02nd July, 2026)

Brief Facts:

The petitioner, Excel Polymers, challenged an assessment order for FY 2018–19 denying ITC for November 2018 to March 2019 on the ground that the relevant GST returns were not filed within the time limit prescribed u/s 16(4) of the CGST Act.

The petitioner contended that, following the insertion of Section 16(5) by the Finance (No. 2) Act, 2024, ITC was retrospectively available for FYs 2017–18 to 2020–21 where the relevant returns were furnished on or before 30.11.2021. Since the returns had been filed within the timelimit, the petitioner argued that the denial of ITC was contrary to the amended provisions.

Issue:

Whether the benefit of Section 16(5), inserted by the Finance (No. 2) Act, 2024, retrospectively overrides the time limitation prescribed u/s 16(4), thereby entitling the taxpayer to claim ITC for FY 2018–19 where the relevant returns were furnished on or before 30.11.2021.

Decision:

The Kerala High Court partly allowed the writ petition and partially set aside the assessment order to the extent that it had denied ITC for the disputed tax periods. The Court held that:

- The assessing authority had failed to consider the retrospective benefit conferred by Section 16(5) while rejecting the petitioner's ITC claim u/s 16(4).
- Since the petitioner had furnished the relevant returns before the cut-off date of 30.11.2021, the claim was required to be examined in light of the amended provisions of the Act.
- The matter was remanded to the State Tax Officer for fresh consideration, with a direction to extend the benefit of Input Tax Credit u/s 16(5) if the petitioner satisfies all other statutory conditions prescribed under the CGST/KSGST Acts.