

AVAILMENT OF ITC UNDER WRONG HEAD SHOULD NOT BE PENALISED: HIGH COURT

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The High Court addressed a significant issue concerning the improper use of Input Tax Credit (ITC) under the wrong GST category (i.e., CGST, SGST, IGST).

Case Background:

- Proceedings were initiated under Section 73 of the CGST Act, with allegations that the petitioners wrongly availed ITC, violating Section 16(2)(c) of the GST Act.
- A show-cause notice was issued, leading to an order that determined the petitioners had claimed excess ITC of Rs. 2,00,219 each under the CGST and SGST categories.
- The petitioners were directed to repay this amount with interest and penalties within three months.
- The rectification petition filed was also rejected, prompting the petitioners to approach the Kerala High Court for intervention.

Arguments and Legal References:

- The tax officer argued that the petitioners misallocated ITC by claiming it under CGST and SGST instead of IGST.
- The respondent claimed this misallocation justified the orders and that court interference under Article 226 of the Constitution was not needed.

Judgment Summary:

1. Court's Rationale:

- The court referred to its prior decision, which ruled that errors in claiming ITC between IGST, CGST, and SGST heads are not necessarily incorrect. These credits constitute a common pool in the electronic credit ledger.
- The common pool operates like a wallet with compartments for different tax credits, allowing flexible usage for GST payments.

2. Judicial Decision:

- The High Court decided that the principles from the previous case should apply to the petitioners' situation.
- As a result, the court set aside the contested orders and directed the state tax authorities to reassess the original order.

- The reconsideration was to be completed within three months of receiving a certified copy of the court's judgment.

3. Outcome:

- The writ petition filed by the petitioners was allowed, providing relief and setting a new deadline for the tax authorities to reconsider the case based on the legal reasoning from the judgment.

This may be handy for the taxpayer(s) who have availed ITC under wrong head (i.e., CGST, SGST and IGST) and is a Revenue Neutral Case.