

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (T) No. 7467 of 2025

Manoj Kumar Singh, S/o Shri Ram Ashish Singh, R/o 65/1, Doubling Colony, P.O. & P.S.-Chakradharpur, District-West Singhbhum
..... Petitioner

Versus

1. Principal Commissioner, Central Goods and Service Tax & Central Excise, Ranchi
2. Superintendent, Central Goods and Service Tax & Central Excise, Range-Chakradharpur, West Singhbhum

..... Respondents

CORAM

**HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Petitioner: Mr. Deepak Kr. Sinha, Advocate

For the Respondents: Mr. Amit Kumar, Advocate

07/21.01.2026

1. Heard learned counsel for the parties.
2. The petitioner, by instituting this writ petition, seeks the following substantive reliefs:
 - "a) For a declaration that the Section 16(4) of Central Goods and Service Tax Act, 2017, is violative of Article 14, 19(1)(g) and Section 300-A of Constitution of India and Section 16(2) of the said Act, 2017 would prevail over Section 16(4) of the CGST Act, 2017 and thereby if the conditions laid down in Section 16(2) of the CGST Act, 2017 are fulfilled, the time limit prescribed under Section 16(4) of the APGST / CGST Act, 2017 for claiming ITC shall have no significance.
 - b) For a declaration that the Petitioner has rightly availed the ITC for the period October, 2018 to March, 2019 on 24.10.2019/25.10.2029, as there is no mandate under Section 16(4) of the Central Goods & Service Tax Act, 2017 for availing ITC in the GSTR 3B within the time limit specified therein and due date of filing return u/s 39 of the said Act for the month of September for the year following the financial year to which it relates has never notified and further delay in filing of return is subject to late fees in terms

of Section 47 of the Act and therefore the Petitioner cannot be penalized again for sole reason of delay in filing of return or any other form.

c) For quashing and setting aside the Order-in-Appeal No. 200/CGST/JSR/2023 dated 29.12.2023 (Annexure-3) passed by the Joint Commissioner (Appeals), CGST & Cex, Ranchi, whereby the appeal filed by the Respondent No. 2 in pursuance of Order-in-Review cum Authorization No. 05/Review/GST/R.CKP/2022-23 dated 31.03.2023 against the Order-in-Original No. 21/Superintendent/2022 dated 12.10.2022, has been allowed on frivolous ground that amendment or substitution of Section 16(4) of the CGST Act, 2017 vide Section 100 of the Finance Act, 2022, as notified by Notification No. 18/2022-Central Tax dated 28.09.2022 is not applicable.”

3. At this stage, there is no question of going into the issue of alleged unconstitutionality of Section 16(4) of the CGST Act, 2017 because subsequent to passing of the order in appeal dated 29.12.2023, Section 16 of the CGST Act, 2017 has been amended by inserting sub-section (5) therein, which reads as follows:

“(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017- 18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed upto the thirtieth day of November, 2021.”

4. Further, the CBIC vide Circular No. 237/31/2024/GST dated 15.10.2024 has also issued a clarification regarding implementation of provisions of sub-sections (5) & (6) in Section 16 of CGST Act, 2017, which might impact the present matter.
5. A co-ordinate Bench of this Court in the case of ***Vinod Udaipuri vs. Union of India & Others*** in ***W.P. (T) No. 5267 of 2023*** has taken cognizance of the subsequent amendment and based upon the same, set

aside the order in original impugned in the said writ petition and remitted the matter to the appropriate authority to pass fresh order after considering the implication and impact of insertion of Section 16(5) in the CGST Act, 2017.

6. Therefore, by adopting the reasoning in ***Vinod Udaipuri*** (supra) and further upon taking cognizance of insertion of Section 16(5) of the CGST Act, 2017 and CBIC Circular dated 15.10.2024, we quash and set aside the order in appeal dated 29.12.2023 and remit the matter to the appellate authority for deciding the revenues appeal afresh and in accordance with law after considering the impact of insertion of Section 16(5) in the CGST Act, 2017 and CBIC Circular dated 15.10.2024.
7. The appellate authority must endeavour to dispose of the appeal within four months from the date of appearance of the parties before it and filing of an authenticated copy of this order.
8. The parties are directed to appear before the appellate authority on 05.02.2026 at 11.00 AM and file an authenticated copy of this order.
9. The appellate authority may thereafter indicate an appropriate date on which the parties shall be heard and the matter shall be disposed of.
10. All the contentions of the parties are however left open to be decided by the appellate authority in accordance with law and on their own merits.
11. This writ petition is accordingly disposed of in above terms without any order for costs.

(M. S. Sonak, C.J.)

(RAJESH SHANKAR, J.)