

THE HIGH COURT OF SIKKIM: GANGTOK

(Civil Extra Ordinary Jurisdiction)

SINGLE BENCH: THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

W.P. (C) No. 25 of 2024

M/S A2Z Infra Engineering LTD.,
Registered Office at Ground Floor, Rajgram,
6th Mile, Tadong, Gangtok, Sikkim 737102,
Represented through Aman Ranjan Verma,
Authorised Signatory of-
M/s A2Z Infra Engineering Ltd.,
Son of Uma Shankar Prasad Verma,
Aged about 55 years,
Resident of Budha Colony Adalbari,
Hajipur Bihar, 844101.

..... **Petitioner**

Versus

- 1.** The Union of India,
Represented by the Secretary,
to the Government of India,
Ministry of Finance Department
of Revenue, New Block,
New Delhi-110001.
- 2.** The Union of India,
Represented by the Under Secretary,
to the Government of India (Revenue),
Ministry of Finance Department
of Revenue, New Block,
New Delhi-110001.
- 3.** GST Council,
Represented by the Chairperson,
Ministry of Finance, North Block,
New Delhi-110001.
- 4.** CBIC,
Represented by the Chairperson,
North Block, Central Secretariat,
New Delhi-110001.

5. GST Network,
Represented by the Chairperson,
Ministry of Finance, North Block,
New Delhi-110001.
6. Commissioner/Joint Secretary in the Board,
CBIC, North Block, Central Secretariat,
New Delhi-110001.
7. Additional Commissioner,
Central Goods and Services Tax and Central Excise,
Siliguri Commissionerate,
Central Revenue Building, Haren Mukherjee Road,
Hakimpara, Siliguri-734001.

..... **Respondents**

Application under Article 226 of the Constitution of India.

Appearance:

Mr. Ketan Jain and Mr. Chetan Kumar Shukla,
Advocates (*through V.C.*). Mr. Passang Tshering Bhutia,
Advocate for the Petitioner.

Ms. Sangita Pradhan, Deputy Solicitor General of India
(*through V.C.*) along with Ms. Sittal Balmiki, Advocate
for the Respondent Nos. 1 to 6.

Mr. Manish Kr. Jain, Advocate for Respondent No.7.

Date of Hearing : 11.04.2025

Date of Order : 11.04.2025

ORDER (ORAL)

Bhaskar Raj Pradhan, J.

1. The present writ petition seeks various directions upon the respondents. Essentially the petitioner is aggrieved by

the impugned Order dated 21.03.2024 by which the respondents have raised demands upon the petitioner as detailed therein. These demands were raised on the ground that as per Section 16(4) of the Central Goods & Services Tax Act, 2017 (the CGST Act, 2017) last date for availing ITC for the Financial Year 2018-19 was 30.11.2019 and for the Financial Year 2019-20 was 30.11.2020. But the petitioner filed their GSTR 3B return for the corresponding months and accordingly availed ITC to the tune of Rs.2,95,58,264/- for the Financial Year 2018-19 and ITC to the tune of Rs.3,14,75,010 for the Financial Year 2019-2020 after the cut-off dates. Therefore, the respondents, in their considered view, raised the demand for irregularly availing ITC as indicated above.

2. The respondent nos.1 to 6 have now placed an affidavit on record dated 25.03.2025 bringing on record a Notification bearing No.17/2024-Central Tax dated 27.09.2024 and Circular No.237/31/2024-GST dated 15.10.2024. It is seen that by the Notification No.17/2024-Central Tax dated 27.09.2024, 27.09.2024 is the relevant date on which the provisions of Sections 118, 142, 148 and 150 of the Finance (No. 2) Act, 2024 (15 of 24) shall come into force.

3. Circular dated 15.10.2024 clarifies that sub-section (5) and sub-section (6) of Section 16 of the CGST Act, 2017 inserted under Section 16 of the CGST Act, 2017, with effect from the 1st day of July, 2017, vide Section 118 of the Finance (No.2) Act, 2024 the time limit to avail input tax credit under provisions of sub-section (4) of Section 16 of the CGST Act, 2017 has been retrospectively extended in certain specified cases.

4. The learned Deputy Solicitor General of India representing respondent nos. 1 to 6 submits that in view of the notification and the circular above, the petitioner is now entitled to the Input Tax Credit that was denied to them by the impugned order.

5. In view of the categorical stand taken by the respondents, the writ petition is liable to be allowed and the impugned order quashed. It is accordingly so ordered.

**(Bhaskar Raj Pradhan)
Judge**

Internet : **Yes**

to