# Muhammed Abdul Saini v. State Tax Officer & Others

*Validity of Section 16(2)(c) of the CGST/SGST Act and ITC eligibility, along with benefit of CBIC Circular Nos. 183/15/2022-GST and 193/5/2023-GST and correction of GSTR-3B errors.*

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| **Date of Order:** | November 6, 2024 |
| **Case Law No:** | GIB-KERHC-2024-20 |
| **Source:** | GST INDIA Biz (www.gstindia.biz) |



## CASE DESCRIPTION / SUMMARY

### Background

The writ petition had challenged Section 16(2)(c) of the CGST/SGST Act to the extent that it required an assessee claiming ITC to ensure that the supplier of the inputs had actually paid the output tax to the Government. The learned Single Judge had rejected the challenge to the statutory provision in a batch of writ petitions. The Division Bench had earlier affirmed that decision in *Nahasshukoor v. Assistant Commissioner II Circle, Alappuzha and Others*.

The appellant also submitted that certain mistakes made while entering figures in Form GSTR-3B could not be brought to the notice of the learned Single Judge when the writ petition was heard. The Single Judge had, however, granted liberty to claim the benefit of two CBIC circulars before the appropriate authority and directed the authority to examine and process the claim. The appellant sought an opportunity to place the GSTR-3B errors also before the assessing authority along with the claims under the circulars.

### Court Observation

The Court held that the principal challenge to **Section 16(2)(c)** had already received approval from a Division Bench in *Nahasshukoor*. Consequently, the challenge to the statutory provision was bound to fail.

However, the Court accepted the appellant’s request regarding the mistakes in Form GSTR-3B. It considered it appropriate to extend the time granted by the Single Judge by one month so that the appellant could claim the benefit of the two specified circulars and also raise the issue concerning errors in Form GSTR-3B before the adjudicating authority.

**Final Verdict**

The writ appeal was **dismissed insofar as it challenged the statutory provisions**, and the findings of the learned Single Judge were otherwise upheld.

The Court extended by **one month from 6 November 2024** the time for approaching the assessing authority to claim the benefit of Circular Nos. 183/15/2022-GST and 193/5/2023-GST and to raise the issue of errors in Form GSTR-3B. The assessing authority was directed to consider and adjudicate the matter expeditiously. The writ appeal was accordingly disposed of.

**Cases Referred by Court**

1. **Nahasshukoor v. Assistant Commissioner II Circle, Alappuzha and Others** — High Court of Kerala — **2024**.