IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(T) No.762 of 2026

M/s. SZK Logistics, (a Proprietorship Concern), having its office at Alamgir House, Alam Nagar, Town Dhanbad, P.O. Bhaga, P.S. Jamadoba, District Dhanbad-828301, Jharkhand, through its Proprietor, namely, Ramiz Alam Khan, Son of Shakilluzzama Khan, resident of Alam Nagar, near Rabi Market, Parasia, P.O. Bhaga, P.S. Jamadoba, District Dhanbad-828301, Jharkhand.

.... Petitioner.

-Versus-

1. Union of India, through the Principal Commissioner, Central Goods and Service Tax and Central Excise, Ranchi, having its office at Central Revenue Building, 5A, Mahatma Gandhi Road, P.O. G.P.O., P.S. Chutia, Town & District Ranchi-834001, Jharkhand.
2. Assistant Commissioner, Central Goods and Service Tax and Central Excise, South Division, Dhanbad, having its office at 9th Floor, Ozone Centre, Ashok Nagar, Dhanbad.

.... Respondents.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner : Mr. Sumit Gadodia, Advocate
Ms. Shruti Shekhar, Advocate
Ms. Sanya Kumari, Advocate

For the Respondents: Mr. P.A. S. Pati, Advocate
Mr. Anurag Vijay, Advocate

<u>Order No.02</u> **<u>Date: 11.02.2026</u>**

1. Heard learned counsel for the parties.

2. With the consent and at the request of learned counsel for the parties, we dispose of this petition finally.

3. The petitioner challenges the order-in-original dated 6th September, 2023 including the summary of order contained in Form GST DRC-07 dated 30th December, 2023 passed by the 2nd respondent wherein Input Tax Credit (ITC) for the financial year 2017-2018 has been rejected by exercising powers conferred under Section 73(9) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017.

4. Mr. Sumit Gadodia, the learned counsel for the petitioner points out that post the issuance of the impugned order-in-original, by the Finance (No.2) Act, 2024, after accepting the recommendation of the GST Council, an amendment has been carried out in Section 16 of the CGST Act by insertion of Section 16(5) with retrospective effect i.e., with effect from 1st July, 2017.

5. Section 16(5) of the CGST Act, inserted in the statute book vide Finance Act, 2024, 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 up to the thirtieth day of November, 2021."*

6. Mr. Gadodia submits that with the insertion of Section 16(5) with retrospective effect, the impugned order-in-original is rendered vulnerable and deserves to be set aside. He relies on the decision of the Coordinate Bench of this Court in the case of ***Vinod Udaipuri Vs. Union of India & Ors. [W.P.(T) No. 5267 of 2023],*** disposed of on 18th September, 2025, which records the concession on the part of the Union of India for setting aside the similar order-in-original dated 19th May, 2023 and for adjudication of the issue afresh in the light of insertion of Section 16(5) in the CGST Act.

7. Mr. P.A.S. Pati, learned counsel for the respondents, however, relies on the Circular No.237/31/2024-GST dated 15th October, 2024, including in particular, clause 3.5 thereof and submits that a tax payer, in order to avail the benefit of the retrospective

amendment by way of insertion of Section 16(5) in the CGST Act is required to apply for rectification within a period of six months from the date of issuance of the notification inserting Section 16(5) in the CGST Act. He submitted that the petitioner in the present case applied for such rectification by an application dated 11th December, 2025, which is beyond the six-month period. Therefore, Mr Pati submitted that there was no obligation to consider such rectification application dated 11th December, 2025 and, therefore, no mandamus may issue.

8. We have considered the rival contentions, and we are satisfied that a limited mandamus is liable to issue to the 2nd respondent to dispose of the petitioner's rectification application dated 11th December, 2025, in accordance with law and on its own merits within a period of two months from the date of uploading of this order.

9. The petitioner's contention about Circular dated 15th October, 2024 or the period of limitation prescribed therein not being applicable to the petitioner's case or generally not binding upon a taxpayer, given the statutory provisions, are specifically kept open, and the same may also be addressed by the 2nd respondent when disposing of the petitioner's rectification application dated 11th December, 2025.

10. The 2nd respondent should afford the petitioner an opportunity of hearing and pass a reasoned order disposing of the aforesaid rectification application within a timeline now directed by us. All

contentions of the parties, however, remain open for the decision of the 2nd respondent in the first instance.

11. If the petitioner is aggrieved by the 2nd respondent's decision, the petitioner will be at liberty to challenge such a decision along with the impugned order-in-original, in accordance with law and the prescribed procedures.

12. The decision cited by Mr Gadodia may not strictly apply. There, the issue of delay or the application of the circular was not involved. In any event, the matter was disposed of on a concession.

13. This petition is disposed of in the above terms without any order for costs.

14. All concerned to act on an authenticated copy of this order.

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

(Rajesh Shankar, J.)

11th February, 2026
Sanjay/Rahul
Uploaded on 12.02.2026