

## **Difference between GSTR 2A and GSTR 3B not a valid ground for disallowing ITC**

The Hon'ble Kerala High Court, in the case of *M/s. Henna Medicals vs. State Tax Office, Thalassery & Ors. [WP (C) 30660 of 2023 dated September 19, 2023]* allowed the writ petition and held that the difference between GSTR 2A and GSTR 3B is not a ground for denial of the claim for Input Tax Credit (“ITC”), thereby directed the Revenue Department to examine the evidence placed on record by the assessee and pass fresh orders accordingly.

### **Facts:**

M/s. Henna Medicals (“the Petitioner”) claimed ITC on Goods and Services Tax (“GST”) paid was rejected by the Revenue Department (“the Respondent”) on the ground that there was a difference between GSTR 2A and GSTR 3B vide Order dated December 28, 2021 and Recovery Notice dated September 2, 2023. (“the Impugned Order”)

Aggrieved by the Impugned Order, the Petitioner filed a writ petition praying for setting aside the Impugned Order and claiming ITC for Rs. 2,58,116/- along with interest and penalty.

### **Issue:**

Whether the ITC claim can be denied on the ground that there is a difference between GSTR 2A and GSTR 3B?

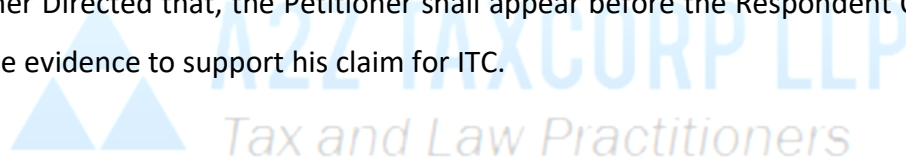
### **Held:**

The Hon'ble Kerala High Court in *WP(C) 30660 of 2023*, held as under:

- Relying upon the judgement of the Hon'ble Supreme Court in the case of *State of Karnataka vs. M/s Ecom Gill Coffee Trading Private Limited [Civil Appeal No. 230 of 2023 dated March 13, 2023]* and the judgement of Hon'ble Calcutta High Court in the case of *M/s Suncraft Energy Private Limited and Another vs. The Assistant Commissioner, State Tax, Ballygunge Charge [MAT 1218 of 2023 dated August 2,*

**2023]**, wherein Court observed that the claim of ITC should not be denied only on the ground that there is a difference between GSTR 2A and GSTR 3B.

- Further relying upon the judgement of the Hon'ble Kerala High Court in the case of ***M/s Diya Agencies vs. State Tax Officer [WP (C) 29769/2023 dated September 12, 2023]***, the Hon'ble High Court noted that, the difference between GSTR 2A and GSTR 3B should not be the sole basis for denial of the claim for ITC when there is evidence on record to prove that the claim of ITC is bonafide and genuine. Therefore, directed the Assessing Authority to grant an opportunity to the assessee to give evidence to support his claim for ITC.
- Directed that, the matter be remitted back to Respondent for the purpose of examination of the evidence of the Petitioner for claiming ITC and after examination of evidence, the Respondent passes fresh orders in accordance with law.
- Further Directed that, the Petitioner shall appear before the Respondent Officer with all the evidence to support his claim for ITC.



**Author can be reached at [info@a2ztaxcorp.com](mailto:info@a2ztaxcorp.com))**

***DISCLAIMER: The views expressed are strictly of the author and A2Z Taxcorp LLP. The contents of this article are solely for informational purpose and for the reader's personal non-commercial use. It does not constitute professional advice or recommendation of firm. Neither the author nor firm and its affiliates accepts any liabilities for any loss or damage of any kind arising out of any information in this article nor for any actions taken in reliance thereon. Further, no portion of our article or newsletter should be used for any purpose(s) unless authorized in writing and we reserve a legal right for any infringement on usage of our article or newsletter without prior permission.***