



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.8809 of 2025
Decided on: 6th June, 2025

M/s Himalaya Communication Pvt. Ltd.Petitioner

versus

Union of India and others ...Respondents

Coram

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

Whether approved for reporting?¹ No.

For the petitioner: Mr. Ravinder Pal Jindal and
Mr. Goverdhan Lal Sharma,
Advocates.

For the respondents: Mr. Bharat Bhushan, Senior
Panel Counsel for respondent
No.1.

Mr. Vijay Kumar Arora, Senior
Advocate with Ms. Godawari,
Advocate for respondents No.2
to 4.

Tarlok Singh Chauhan, Judge (Oral)

The instant petition has been filed for grant of the
following reliefs:-

- “i) For issuance of a writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ or direction calling for the records pertaining to the Petitioners' case and after going into the validity and legality thereof to quash and set aside the impugned orders passed by Respondent No. 3 & 4 issued for denying the Input tax credit to the petitioner.

¹ Whether the reporters of Local Papers may be allowed to see the judgment? Yes.

ii) *This Hon'ble Court be pleased to issue a Writ of Mandamus directing the respondents to allow the Input Tax Credit claimed by the petitioner for the relevant period as the impugned orders dated 10.01.2025 and 31.03.2024 issued by Respondent No. 3 & Respondent No. 4 respectively were issued without appreciating the Registrar factual and legal position as the petitioner has already paid tax to the seller and has in his possession all the documents required for claiming the ITC and the that supplier has already discharged its tax liability as evidenced by GSTR-3B filed by him for the relevant month."*

2. The sole ground on which the input tax credit claimed has been denied to the petitioner is that the supplier GST registration has been cancelled with retrospective effect. However, there is no material on record indicating that either the Assessing Officer or the Appellate Authority has considered whether the transaction in question was genuine and straightaway notice under Section 16(2) of the CGST Act has been issued.

3. We are of the considered view that before taking any action in the matter, considering the genuineness of the transaction, the same could have been determined only after examining all the relevant documents, which does not appear to have been done in the instant case.

4. Consequently, the present petition is allowed on this ground alone and the impugned orders dated 10.01.2025 and 31.03.2024 issued by respondents No.3 and 4 are set aside. The matter is remanded back to the Adjudicating

Authority, who shall decide the matter after examining all the relevant documents. The parties to appear before the said authority on 20.06.2025.

5. The writ petition is disposed of in the aforesaid terms, so also the pending applications, if any.

(**Tarlok Singh Chauhan**)
Judge

June 06, 2025
(naveen)

(**Sushil Kukreja**)
Judge