



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.8053 of 2025

Date of decision: 01.01.2026

Shivam Electric Corporation.

...Petitioner.

Versus

Union of India & Ors.

...Respondents.

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?¹

For the petitioner : Mr. Joy Kumar and Mr. Ajmer Singh, Advocates.

For the respondent : Mr. Virbahadur Verma and Mr. Mukul Sharma, Advocates, for respondent No.1.

: Mr. Vijay K. Arora, Senior Advocate with Ms. Aastha Kohli and Mr. Hitansh Raj, Advocates, for respondents No.2 & 4.

Vivek Singh Thakur, Judge (Oral)

Petitioner, invoking jurisdiction of this Court under Article 226 of Constitution of India, has approached this Court seeking following substantive relief:-

"1. Issue an appropriate or prerogative writ, order or direction directing the Respondents to accept the manual filing of GSTR-3B for the quarter ending March 2021 with the additional claim of ITC amounting to Rs.10,54,098/-."

¹ Whether the reporters of the local papers may be allowed to see the Judgment? Yes

2. Case of the petitioner, in nutshell, is that due to an error which occurred during the Financial Year 2020–21, the petitioner could not claim Input Tax Credit ('ITC') in the original return filed for the said period. The said error came to the notice of Accountant of the petitioner in the year 2022 at the time of filing of annual return GSTR-9 for the Financial Year 2020-21 and return was duly filed with correction of error. But the fact that discrepancy was continuing in record of Department, came to the notice of the petitioner only on receiving of Summary of Show Cause Notice dated 23.11.2024 in Form GST DRC-01, whereafter the petitioner filed reply to the said notice on 07.01.2025. However, at the same time, in order to rectify the mistake, the petitioner approached this Court by filing the present writ petition, as there is no mechanism or provision under Section 16 of the Central Goods and Services Tax Act, 2017 (in short, 'the CGST Act') to permit the petitioner to file manual return GSTR-3B for quarter ending March 2021 with additional claim of ITC amounting to ₹10,54,098/-.

3. With submission that allowing the petitioner to file manual return, as prayed, is not going to have any impact on the revenue of the State. Therefore, it has been contended that by allowing filing of manual return, as prayed, would not cause any loss of revenue automatically.

4. Mr. Vijay K. Arora, learned Senior Advocate, appearing on behalf of respondents No.2 to 4 submits that in reply to the notice dated

23.11.2024, petitioner had specifically taken the plea with respect to not claiming Input Tax Credit of Rs.10,54,098/- for the months of January 2021 and February 2021 by assigning reason on account of ignorance of shifting GST monthly-return procedure to quarterly-return with further submission that mistake came to the notice of Accountant at the time of filing return GSTR-9 for the Financial Year 2020-21, which was duly filed on 28.02.2022. It has been submitted that petitioner came to know about mistake in year 2022 itself, but did not take action to rectify the mistake and, therefore, prayer of the petitioner deserves to be rejected, especially for the reasons that there is no mechanism or provision under Section 16 of CGST Act, 2017 for filing manual returns and after considering the plea taken in the reply filed to the notice dated 23.11.2024, concerned authority has passed order dated 19.02.2025 confirming the demand against petitioner to deposit Rs.11,21,351/- for short payment of GST with respect to tax liability of outward supplies due to mismatch between GSTR-3B and GSTR-1.

5. Learned counsel for the petitioner submits that it is true that mistake was noticed in the year 2022, but for filing annual return GSTR-9 with rectification of mistake, petitioner was under impression that the mistake committed in claiming Input Tax Credit would be rectified everywhere in relevant record and shall be taken care of accordingly by the concerned authority. However, on receiving notice

dated 23.11.2024, it was realized that the rectification of the error had not been accounted for in the records of the respondents.

6. It has been further submitted on behalf of the petitioner that permitting to file manual return, as prayed, would not have any impact on the order dated 19.02.2025, confirming the demand of Rs.11,21,351/-, and the order dated 19.02.2025 shall remain intact, unless modified or set aside by competent authority after taking into consideration entire material available on record in an appropriate appeal/proceedings, if any preferred by the petitioner and in absence of filing of any appeal, the demand shall remain intact.

7. Considering the entire facts and circumstances of the case, and the submissions made by learned counsel for the parties, especially taking into consideration the plea of the petitioner that filing of manual return would not automatically absolve the petitioner from meeting the demand raised vide order dated 19.02.2025 and that the same shall remain intact subject to any further order that may be passed by the competent authority, if so permissible to be agitated by the petitioner, we are of the considered opinion that the prayer to allow the petitioner to file manual return, as prayed for, deserves to be acceded to.

8. Accordingly, respondents are directed to allow the petitioner to file manual return, as prayed, but with no automatic impact

on the order dated 19.02.2025, however, subject to any further order passed by competent authority.

The petition is disposed of in above terms, so also the pending application(s), if any.

(Vivek Singh Thakur)
Judge

(Romesh Verma)
Judge

1st January, 2026
(Pardeep)

High Court