



d h r u v a

LITIGATION ALERT

October 23, 2025

Supreme Court allows the benefit of Input Tax Credit to bona-fide purchaser despite selling-dealer's failure to deposit VAT

Supreme Court allows input tax credit to buyer despite seller's failure to deposit tax

The Commissioner of Trade and Tax Delhi vs. Shanti Kiran India (P) Ltd.¹

In a landmark ruling, the Hon'ble Supreme Court has dismissed the Revenue's appeal against the Delhi High Court's judgment which had allowed the benefit of Input Tax Credit (ITC) to the purchaser (Assessee), notwithstanding the seller's failure to deposit Value Added Tax (VAT) and the subsequent cancellation of the seller's registration.

The Apex Court observed that there was no dispute regarding the seller's registration status at the time of transaction or the authenticity of the tax invoices and accordingly upheld the High Court's² decision granting ITC to the Assessee.

Background and Facts

- The Assessee, a trader in electrical products, purchased goods from suppliers on the basis of tax invoices and paid applicable VAT.
- The VAT Officer (VATO) disallowed the ITC on purchases from selling dealers whose registration stood cancelled subsequently and demanded tax, interest and penalty.
- The VATO was of the opinion that the selling dealers operated for short periods and their turn-over was high in comparison to the tax deposited by them.
- Assessee argued that the subsequent cancellation of the registration of the selling

dealers could not be the basis for tax liability of a bona-fide purchaser who could not be held liable for seller's default.

- The Tribunal dismissed Assessee's appeal observing that Section 9(1) permits tax credit to a purchasing dealer to the extent the tax is actually deposited by the selling dealer.
- Revenue submitted that the Tribunal cannot be faulted for relying on Section 9(2)(g) which was brought into force with effect from April 01, 2013³.
- The Delhi High Court allowed Assessee's appeal against Tribunal order and observed as below:
 - There is no mechanism enabling a purchasing dealer to verify deposit of tax by the selling dealer nor any notification to ascertain cancellation of dealer's registration post the supply transaction.
 - Clause (g) to Section 9(2) was not in existence during the period of dispute as it was introduced by an amendment, made effective, in 2010.
 - Tribunal's interpretation that there is statutory authority for granting ITC, only to the extent tax is deposited by the selling dealer, is unsound and places onerous burden on the purchasing dealer.

¹ TS-691-SC-2025-VAT

² Quest Merchandising India Pvt. Ltd. vs. Government of NCT of Delhi and Ors [TS-314-HC-2017(DEL)-VAT]

³ Clause (g) to Section 9(2), stipulated that ITC is admissible to purchasing dealer only when tax is actually deposited by the selling dealer

Discussion and Findings

- It is undisputed that on the date of transaction, the seller was registered with the Department.
- After the transaction, seller's registration got cancelled and seller defaulted in depositing the tax collected by them from the purchaser.
- A similar issue later arose for consideration before the High Court⁴ in the context of the provisions of Section 9(2)(g) where ITC was held allowable. The Special Leave Petition (SLP) was thereafter disposed of without interfering with the above High Court⁵ order.

Judgment

- Based upon the above observations, the Court held that Revenue appeals lack merit and is dismissed as:
 - There is no dispute regarding the selling dealer being registered on the date of transaction and;
 - Neither the transactions nor invoices in questions have been doubted, based on any inquiry into their veracity.
 - There is no "good reason to interfere with the order of the High Court directing for grant of ITC benefit after due verification".

⁴ Quest Merchandising India Pvt. Ltd. vs. Government of NCT of Delhi and Ors [TS-314-HC-2017(DEL)-VAT]

⁵ TS-2-SC-2018-VAT

DHRUVA INSIGHT

The Supreme Court's ruling reaffirms a judicial principle – that bona fide purchasers cannot be penalized for a seller's default, so long as the underlying transaction is genuine and duly supported by valid tax invoices. While the judgment pertains to the erstwhile VAT regime, its reasoning resonates strongly under the GST framework, where denial of ITC on account of supplier non-compliance continues to be a contentious issue.

In the absence of any statutory mechanism under the GST law enabling a buyer to ensure the supplier's tax remittance, the Court's observations provide constitutional support for protecting bona fide recipients and reinforce the argument that ITC is a vested right, not a concession. The verdict is likely to hold persuasive value in ongoing litigations challenging the constitutional validity of Section 16(2)(c) of the CGST Act, potentially shaping the future contours of input tax credit doctrine under the GST law.

ADDRESSES

Mumbai

1101, One World Centre,
11th Floor, Tower 2B,
841, Senapati Bapat Marg,
Elphinstone Road (West),
Mumbai – 400 013
Tel: +91 22 6108 1000 / 1900

Ahmedabad

402, 4th Floor, Venus Atlantis, 100
Feet Road, Prahlad Nagar,
Ahmedabad – 380 015
Tel: +91 79 6134 3434

Bengaluru

Lavelle Road, 67/1B,
4th Cross, Bengaluru,
Karnataka – 560001
Tel: +91 90510 48715

Delhi / NCR

305-307, Emaar Capital Tower-1,
MG Road, Sector 26, Gurgaon
Haryana – 122 002
Tel: +91 124 668 7000

New Delhi

1007-1008, 10th Floor, Kailash
Building, KG Marg, Connaught Place,
New Delhi – 110001
Tel: +91 11 4471 9513

GIFT City

Dhruva Advisor IFSC LLP
510, 5th Floor, Pragya II,
Zone-1, GIFT SEZ, GIFT City,
Gandhinagar – 382050, Gujarat.
Tel: +91 7878577277

Pune

305, Pride Gateway,
Near D-Mart, Baner,
Pune – 411 045
Tel: +91 20 6730 1000

Kolkata

4th Floor, Camac Square,
Unit No. 403 & 404B,
Camac Street,
Kolkata - 700016, West Bengal
Tel: +91-33-66371000

Singapore

Dhruva Advisors Pte. Ltd.
#16-04, 20 Collyer Quay,
Singapore – 049 319
Tel: +65 9144 6415

Abu Dhabi

Dhruva Consultants
1905 Addax Tower,
City of Lights, Al Reem Island,
Abu Dhabi, UAE
Tel: +971 26780054

Dubai

Dhruva Consultants
Emaar Square Building 4,
2nd Floor, Office 207, Downtown,
Dubai, UAE
Tel: +971 4 240 8477

Saudi Arabia

Dhruva Consultants
308, 7775 King Fahd Rd,
Al Olaya, 2970,
Riyadh 12212, Saudi Arabia

KEY CONTACTS

Dinesh Kanabar

Chief Executive Officer
dinesh.kanabar@dhruvaadvisors.com

Ranjeet Mahtani

ranjeet.mahtani@dhruvaadvisors.com

Jignesh Ghelani

jignesh.ghelani@dhruvaadvisors.com

Kulraj Ashpnani

kulraj.ashpnani@dhruvaadvisors.com

Disclaimer:

The information contained herein is in summary form and is therefore intended for general guidance only. This publication is not intended to address the circumstances of any particular individual or entity. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. This publication is not a substitute for detailed research and professional opinions. Before acting on any matters contained herein, reference should be made to subject matter experts, and professional judgment needs to be exercised. Dhruva Advisors India Private Limited cannot accept any responsibility for loss occasioned to any person acting or refraining from acting as a result of any material contained in this publication.