

Instakart Services Private Limited v. Union of India & Ors.

Challenge to constitutional validity of denial of Input Tax Credit due to supplier default; liability of recipient under GST regime (Sections involved: Section 16(2)(c) of CGST Act, 2017 & KGST Act, 2017; Rule 36(4) of CGST/KGST Rules)

Date of Order: February 9, 2026
Case Law No: GIB- KERHC-2026-28
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CASE DESCRIPTION / SUMMARY

Facts

The petitioner, a logistics service provider registered under GST, challenged [Section 16\(2\)\(c\)](#) and [Rule 36\(4\)](#), contending that they impose an impossible burden on recipients to ensure tax payment by suppliers. It was argued that denial of ITC due to supplier default is arbitrary and beyond the control of the recipient. The petitioner sought declaration of the provisions as unconstitutional or alternatively sought reading down to protect bona fide recipients who complied with statutory requirements.

Court Decision:

The High Court declined to strike down [Section 16\(2\)\(c\)](#) and [Rule 36\(4\)](#). The Court held that the provisions cannot be declared unconstitutional. However, relying on precedents, the Court held that bona fide purchasers cannot be denied ITC merely due to default of the selling dealer, unless there is fraud, collusion, or lack of genuineness in the transaction. The matter was considered in light of judicial precedents emphasizing protection of genuine transactions and limiting denial of ITC only in appropriate cases.

Cases Referred by Court:

- Commissioner of Trade and Taxes v. Arise India Ltd.
- On Quest Merchandising India Pvt. Ltd. v. Union of India
- Corporation Bank v. Saraswati Abharansala
- Gheru Lal Bal Chand v. State of Haryana
- State of Karnataka v. Rajesh Jain

- Onyx Designs v. Assistant Commissioner of Commercial Taxes

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