

National Plasto Moulding v. State of Assam & Ors.

Challenge to denial of Input Tax Credit to purchasing dealers due to default of selling dealers under GST law (Sections involved: Sections 16(2)(c) and 16(2)(d) of CGST Act, 2017 and Assam GST Act, 2017)

Date of Order: August 5, 2024
Case Law No: GIB-GHC-2014-02
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Facts :

The petitioners, registered dealers under GST, challenged show cause notices denying Input Tax Credit on the ground that the selling dealers had failed to deposit tax with the Government. They also challenged the constitutional validity of Sections 16(2)(c) and 16(2)(d). The petitioners relied on the decision of the Delhi High Court in On Quest Merchandising India Pvt. Ltd., contending that bona fide purchasers cannot be penalized for supplier default. The matters were heard as a batch of writ petitions raising identical issues.

Court Decision:

The High Court held that the controversy is squarely covered by the decision in On Quest Merchandising India Pvt. Ltd. and applied the same principle. The Court set aside the impugned show cause notices and consequential orders denying ITC. It held that bona fide purchasing dealers cannot be denied ITC due to failure of the selling dealer to deposit tax. However, liberty was granted to the department to proceed in cases where transactions are not bona fide.

Cases Referred by Court:

- On Quest Merchandising India Pvt. Ltd. v. Government of NCT of Delhi
- Commissioner of Trade and Taxes v. Arise India Ltd. (SLP dismissed by Supreme Court)