Shanti Kiran India Pvt. Ltd. v. Commissioner, Trade & Tax Department

Denial of Input Tax Credit to purchasing dealer due to non-payment of tax by selling dealer under DVAT (Section involved: Section 9(1) and Section 9(2) of the Delhi Value Added Tax Act, 2004)

Date of Order: January 4, 2013
Case Law No: GIB-DHC-2013-02
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Facts :
The appellant, a registered dealer, purchased goods from registered selling dealers against valid tax invoices and claimed input tax credit. The VAT authorities disallowed ITC on the ground that selling dealers had deposited disproportionately low tax and their registrations were later cancelled. The assessment orders, objection orders, and Tribunal upheld denial of ITC and imposed tax, interest, and penalty. The appellant challenged these findings before the High Court.

Court Decision:
The High Court held that denial of ITC was not justified in the absence of any statutory provision (during the relevant period) requiring the purchasing dealer to ensure that the selling dealer deposited tax. It held that Section 9(2) did not contain such a condition prior to insertion of clause (g), and the Tribunal's interpretation was erroneous. The Court allowed the appeals and directed grant of input tax credit to the appellant after verification.

Cases Referred by Court:
- State of Maharashtra v. Suresh Trading Company
- Althaf Shoes Pvt. Ltd. v. Assistant Commissioner (CT)
- V.M. Salgaocar & Bros. Pvt. Ltd. v. Commissioner of Income Tax
- Shyam Sunder v. Ram Kumar
- Bihar State Council of Ayurvedic and Unani Medicine v. State of Bihar
- R.S. Joshi v. Ajit Mills
- Shree Sajjan Mills Ltd. v. Commissioner of Income Tax
- George Oakes (Private) Ltd. v. State of Madras

- Commissioner of Central Excise v. Hari Chand Shri Gopal
- State of Jharkhand v. Govind Singh
- J.P. Bansal v. State of Rajasthan

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