State of Karnataka v. Tallam Apparels

Disallowance of Input Tax Credit on allegation of non-genuine transactions and non-payment of tax by selling dealer under VAT (Sections involved: Section 70(1), Section 39(1), and relevant provisions of the Karnataka Value Added Tax Act, 2003)

Date of Order: February 26, 2021
Case Law No: GBI-KERHC-2021-01
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Facts :
The assessee, a registered dealer dealing in garments, claimed input tax credit on purchases supported by invoices. The audit authority disallowed ITC under Section 39(1) alleging that transactions with certain dealers were not genuine and that the burden under Section 70 was not discharged. The First Appellate Authority upheld the disallowance, but the Karnataka Appellate Tribunal allowed the assessee's appeal. The State filed a revision petition before the High Court challenging the Tribunal's order.

Court Decision:
The High Court upheld the Tribunal's order and dismissed the revision petition. It held that the assessee had discharged the burden under Section 70 by producing invoices and proof of payment through banking channels, establishing genuineness of transactions. The Court further held that once transactions are proved genuine, input tax credit cannot be denied merely because the selling dealer failed to remit tax. It was also held that the statute does not permit action against the purchasing dealer for default of the selling dealer.

Cases Referred by Court:
- Microqual Techno Pvt. Ltd. v. Additional Commissioner of Commercial Taxes
- Packwell Industries v. State of Karnataka

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