

Maruti Enterprise v. Union of India & Ors.

Constitutional validity of Section 16(2)(c) of the CGST Act, 2017 — whether ITC can be denied to a bona fide purchasing dealer solely on account of the supplier's failure to deposit tax with the Government.

Date of Order: May 1, 2026
Case Law No: GIB-GHC-2026-151
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

A batch of over 50 writ petitions was filed before the Gujarat High Court challenging the vires of Section 16(2)(c) of the Central Goods and Services Tax Act, 2017. The petitioners were purchasing dealers who had paid GST to their registered suppliers against proper tax invoices, duly reflected in GSTR-2A/2B. However, since their respective suppliers defaulted in depositing the tax so collected with the Government, the Revenue denied Input Tax Credit to these purchasing dealers. The lead matter was taken up as SCA No. 18080 of 2023. The Court confined its examination solely to the constitutional validity of Section 16(2)(c) and expressly did not examine the merits of individual matters.

Court Observations (Verbatim)

On the GST ITC Scheme and Section 16(2)(c):

"The SOR emphatically mentions about 'input tax credit making it available in respect of taxes paid'. Thus, availment of ITC is intrinsically connected with the factum of 'taxes paid'." (Para 43)

On distinction from VAT regime and Section 53:

"Furthermore, Section 53 of the CGST Act is highly relevant, as it mandates that the tax component utilized by an inter-State supplier

must be transferred to the Destination State... If a supplier in the originating state fails to deposit the tax, yet the recipient (or a downstream dealer) is permitted to claim credit based solely on invoices, the originating state would be forced to transfer funds to the destination state that it never actually received. This would result in a direct loss of revenue for the originating state." (Para 59)

"Therefore, considering the overall scheme of the Act, any 'reading down' (narrow interpretation) of Section 16(2)(c) would trigger cascading fiscal consequences. The legal position under the former VAT regime was materially different, as input tax credit was confined within the originating state. In contrast, the GST regime is destination-based; therefore, input tax credit must operate seamlessly across state lines for inter-State supplies, requiring strict compliance to maintain fiscal balance." (Para 60)

On the statutory mechanism protecting purchasers:

"The scheme of ITC under the GST framework does not envisage a situation where the purchasing dealer is left remediless. The Revenue is empowered to initiate recovery proceedings against the supplier under Sections 73 and 74 of the CGST Act for failure to discharge tax liability in respect of the original transaction. Further, in terms of Rule 37A of the CGST Rules, 2017 once the supplier discharges such tax liability, the purchasing dealer becomes entitled to re-avail the credit in the immediately succeeding month. Thus, the statutory mechanism does not permanently deprive the purchasing dealer of ITC; rather, the credit is restored upon payment of tax into the Government treasury. Mere delay or hardship in availing ITC, therefore, cannot constitute a valid ground for reading down Section 16(2)(c) of the CGST Act." (Para 62)

On double taxation argument:

"The contention regarding double taxation is misconceived. It is well settled that ITC is not a constitutional or vested right, but a statutory concession, subject to the conditions and restrictions prescribed under the Act. Where the statute provides for reversal and re-availment of credit, the same cannot be characterised as double taxation so as to invalidate the provision." (Para 63)

On ultra vires challenge:

"The mere absence of a specific statutory mechanism enabling recovery by the purchasing dealer from the supplier cannot, by itself, render Section 16(2)(c) of the CGST Act ultra vires." (Para 64)

On the doctrine of reading down:

"However, in the present case, Section 16(2)(c) of the CGST Act is clear, self-explanatory, and unambiguous. Its plain reading

does not give rise to any constitutional or legal infirmity. The underlying intent of the provision is that the Government cannot be deprived of revenue on account of illegal or defaulting conduct on the part of the supplier." (Para 67)

On inapplicability of DVAT ratio:

"On a close scrutiny of the scheme of the GST regime, it is

evident that Section 16(2)(c) of the CGST Act cannot be equated with the VAT regime, particularly with Section 9(2)(g) of the DVAT Act, as examined by the Delhi High Court in On

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"Albeit, we acknowledge that the provisions of Section 16(2)(c) of the Act are to be viewed from a

regulatory standpoint and are anchored in the legitimate objective of maintaining the integrity of the tax chain, preventing systemic revenue loss

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ADDITIONAL FOOTNOTES

Cases Referred

| S.No. | Case Name | Citation |
|--------------|--|---|
| 1 | On Quest Merchandising India (P.) Ltd. v. Government of NCT of Delhi | [2017] 87 taxmann.com 179 / [2018] 10 GSTL 182 (Del.) |
| 2 | Commissioner of Trade & Tax, Delhi v. Arise India Ltd. | 2022 (60) GSTL 215 (SC) |
| 3 | Commissioner Trade & Tax, Delhi v. Shanti Kiran India (P.) Ltd. | [2025] 179 taxmann.com 665 (SC) |
| 4 | State of Karnataka v. Ecom Gill Coffee Trading Pvt. Ltd. | (2023) 18 SCC 809 |
| 5 | Sahil Enterprises v. Union of India | Tripura High Court |
| 6 | Arpit Pravinbhai Shah v. Assistant Commissioner of Income Tax | (2026) 182 taxmann.com 691 (Guj.) |
| 7 | Axel Kittel v. Belgian State & Belgian State v. Recolta Recycling SPRL | C-439/04 & C-440/04 (ECJ, Third Chamber, 06.07.2006) |
| 8 | Authorized Officer, Central Bank of India v. Shanmugavelu | (2024) 6 SCC 641 |
| 9 | Director of Income Tax v. American Express Bank Ltd. | 2025 SCC OnLine (SC) 2806 |
| 10 | R.V. Enterprises v. State of Gujarat | 2025 SCC OnLine (Guj.) 4780 |
| 11 | M. Trade Links v. Union of India | 2024 SCC OnLine (Ker.) 2744 |
| 12 | Thirumalakonda Plywoods v. Assistant Commissioner, Sales Tax | 2023 SCC OnLine (A.P.) 1476 |
| 13 | Asha Enterprises v. State of Bihar | 2023 SCC OnLine (Pat.) 4395 |
| 14 | Shree Krishna Chemicals v. Union of India | 2025 SCC OnLine (MP) 1301 |
| 15 | Baby Marine (Eastern) Exports v. Union of India | 2025 SCC OnLine (Mad.) 15588 |
| 16 | Nahasshukoor & Anr. v. Assistant Commissioner | 2023 SCC OnLine (Ker.) 11369 |
| 17 | Mahalaxmi Cotton Ginning Pressing and Oil Industries v. State of Maharashtra | 2012 SCC OnLine (Bom.) 733 |
| 18 | Commissioner of Sales Tax, U.P. v. Modi Sugar Mills Limited | AIR 1961 SC 1047 |
| 19 | Kailash Chandra v. Mukundi Lal | [2002] 2 SCC 678 |
| 20 | ALD Automotive Private Limited v. Commercial Tax Officer | (2019) 13 SCC 225 |
| 21 | B.R. Enterprises v. State of U.P. & Ors. | (1999) 9 SCC 700 |