Savitri Industries v. Chief Commissioner of CT & GST

Input tax credit disallowed under Section 16(2)(c) solely because the supplier had not filed its returns, notwithstanding that the tax was reflected in the recipient's FORM GSTR-2A. At issue: whether a writ court will re-examine the correctness of that

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CASE DESCRIPTION / SUMMARY

Background.

By an order in FORM GST DRC-07 dated 25.02.2025 under Section 74, a demand of Rs. 13,63,646 comprising tax of Rs. 4,82,531, interest of Rs. 3,98,584 and penalty of Rs. 4,82,531 was raised for the tax periods April 2019 to March 2020, on disallowance of input tax credit availed on transactions with M/s KVR Industries Limited, that supplier not having discharged its tax liability, Section 16(2)(c) being invoked. An earlier proceeding under Section 73 had been dropped as proceedings under Section 74 had already been initiated.

Observations of the Court.

The petitioner contended that the credit was on tax actually paid to the supplier and reflected in FORM GSTR-2A, and that fastening the supplier's default on the recipient merely because the supplier had not filed returns for August to November 2019 amounts to requiring the recipient to discharge the supplier's liability, resulting in double taxation prohibited in law.

The department pointed to a reasoned order passed after opportunity of hearing and after examination and verification of the purchase register, waybill details, payment details, goods transport details and the credit register against proof of deposit by the supplier, and to the availability of an efficacious alternative remedy, the vires of no provision being in question.

Final verdict.

The Court declined to entertain the writ petition and dismissed it, leaving the petitioner at liberty to avail the alternative remedy available under the GST Act, and making it clear that the facts narrated were not to be treated as an expression of opinion touching the merits of the matter.