R.T. Infotech v. Additional Commissioner Grade 2 & 2 Others

Denial of ITC under Section 16(2)(c) where GST was paid to the supplier through banking channels but not deposited by the supplier.

Date of Order: May 30, 2025
Case Law No: GIB-AHC-2025-65
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

The petitioner had purchased recharge coupons against seven tax invoices on which CGST and SGST were charged. The tax component shown in the invoices was paid through the banking channel by RTGS. During scrutiny, a discrepancy was noticed between the ITC claimed and the credit appearing in GSTR-2A. The petitioner explained that the disputed ITC related to the said invoices and that the payments had been made through RTGS.

A show-cause notice under **Section 73** was thereafter issued alleging wrongful availment of ITC under **Section 16(2)(c)** on the ground that the tax had not been deposited with the Government. The petitioner contended that proceedings should instead be initiated against the selling dealer, as the purchaser had no control over the seller's filing of returns or deposit of tax. An order was passed requiring reversal/deposit of the ITC amount, along with penalty and interest, and the appeal against the order was dismissed.

Court Observation

The Court found that the purchase through the seven bills and charging of CGST and SGST were not in dispute, and the GST charged under the invoices had been paid through the banking channel by RTGS. The record also showed that proceedings had been initiated against the selling dealer for non-discharge of its duties.

The Court observed that the purchasing dealer **cannot compel the selling dealer either to deposit the tax collected with the Government treasury or to file the return within the stipulated time**. Therefore, a purchasing dealer who has diligently discharged its own obligations cannot be left at the mercy of the selling dealer. The assessing authority ought to have considered the fact that the purchases were supported by tax invoices, payments were made through banking channels, and action had already been taken against the selling dealer.

The Court relied upon the Supreme Court's decision in **Suncraft Energy** and the Madras High Court's decision in **D.Y. Beathel Enterprises**, both of which were considered in the context of action against the supplier where tax had been paid by the purchaser but the supplier failed to discharge its obligations.

Final Verdict

The Court held that the matter required reconsideration and consequently found that the impugned orders **could not be sustained in law**. The orders were therefore **quashed**.

The writ petition was **allowed** and the matter was remanded to the concerned respondent for fresh adjudication by passing a reasoned and speaking order, after hearing all stakeholders, within **two months from the date of production of the certified copy of the order**.

Cases Referred by Court

1. **Assistant Commissioner of State Tax v. Suncraft Energy Pvt. Ltd.** — Supreme Court — **2023**.

2. **D.Y. Beathel Enterprises v. State Tax Officer (Data Cell), Tirunelveli** — Madras High Court — **2022**.