R.K. TRANSPORT & CONSTRUCTIONS LIMITED v. STATE OF JHARKHAND & ORS.

Supplier's Failure to Deposit GST and State's Duty to Act under Section 76(2).

Date of Order: June 13, 2025
Case Law No: GIB-JHC-2025-64
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

BACKGROUND

The petitioner had obtained commercial vehicle rental/hiring services and paid the invoices along with GST. The tax paid, however, did not appear in the recipient's GSTR-2A because the supplier had not filed GSTR-01. Consequently, the petitioner was unable to utilise the corresponding ITC.

Representations were made to the tax authorities requesting action against the supplier for collecting GST without depositing it with the Government. The authorities took the position that the supplier fell within the Central GST jurisdiction and therefore action could not be initiated by the State authorities.

COURT OBSERVATION

The Court held that the stand of the official respondents was contrary to Section 76(1) and (2) of the Jharkhand GST Act. The provision applies to "every person" who collects an amount representing GST and does not pay it to the Government, including a person who is not registered under the JGST Act.

The Court further held that the authorities could not refuse action merely because the supplier was registered under the Central GST authorities. The State authorities were under a duty to initiate proceedings under Section 76(2). The Court also rejected the plea of res judicata because the earlier writ petition had not resulted in adjudication on merits.

FINAL VERDICT

The writ petition was allowed with costs of ₹1,00,000/- payable by the supplier to the petitioner. The official respondents were directed to initiate proceedings under Section 76 of the Jharkhand GST Act against the supplier for collecting tax and not crediting it to the State Government.