

Shaurya Alloys Pvt. Ltd. v. State of Punjab & Anr.

Validity of Section 16(2)(c) read with Section 155 of the CGST Act, and the manner in which ITC may be denied to purchasing dealers for the supplier's default or the retrospective cancellation of its registration – guidelines for proper officers.

Date of Order: October 1, 2026
Case Law No: GIB-PHHC-2026-125
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CASE DESCRIPTION / SUMMARY

Background

A large batch of writ petitions by purchasing dealers from Punjab, Haryana and Chandigarh challenged show cause notices and orders reversing ITC, in many cases accompanied by cancellation of their own registrations, founded mainly on the suppliers' non-payment of tax or the retrospective cancellation of the suppliers' registrations. The petitioners challenged the vires of Section 16(2)(c), and in the alternative sought its reading down to cases of fraud or collusion. The Revenue relied on Maruti Enterprise (Guj HC), Section 155 and the availability of alternative remedies.

Final Verdict

The Court held that **Section 16(2)(c) does not suffer from any constitutional infirmity warranting its invalidation**, since actual payment of tax is the very foundation of ITC; noting that the SLP against Maruti Enterprise was dismissed in Bhandari Scrap Traders, it declined, as a matter of judicial discipline, to read the provision down. It added, however, that **the vice complained of does not inhere in the text of Section 16(2)(c); it arises when the provision is torn out of the statutory scheme and applied in a routine and mechanical manner**. The provision must be applied in harmony with Section 41, Sections 73, 74, 75(12), 76 and 79, and Rules 36, 37A and 88C. Section 76, which makes a supplier pay over tax collected, cannot be rendered toothless, and before 26.12.2022 there was no mechanism to re-avail reversed credit.

It laid down binding guidelines. Cancellation of the supplier's registration, nil returns or alerts are only a starting point for inquiry. The officer must record satisfaction on the supplier's particulars, the nature of the default and the recovery steps taken against the supplier, and establish a direct link with the purchaser. The show cause notice must disclose the material and supply the relied-upon documents. Where Section 74 is invoked, the notice itself must state the foundational facts,

and **the fraud of the selling dealer shall not be attributed to the purchasing dealer unless the notice discloses the facts connecting the purchasing dealer with such fraud.** Other guidelines cover period-wise application of the law, no cancellation of the purchaser's registration merely on this ground, hearing and cross-examination, and reasoned findings on each Section 16(2) condition. All matters were remitted for fresh adjudication, with eight weeks to reply, deposits to abide the result, and no coercive action in the meantime.

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