




Supreme Court Decision Suncraft Energy Pvt Ltd



SC Decision in case of Suncrak Energy Pvt Ltd dt. 15/12/2023

Facts of the case...

- Calcutta High court had passed judgment in favor of tax-payer setting aside ITC demand on recipient on account of GSTR 3B/ GSTR 2A mis-match.
- The assistant commissioner of State Tax had straight away disallowed ITC to the recipient without investigating whether supplier is missing or supplier has closed down his business or any such contingency.
- The High Court had upheld that there shall not be any automatic reversal of input tax credit from buyer on non-payment of tax by seller.



....Facts of the case:

- In case of default in payment of tax by the seller, recovery measures shall be made from the seller first.
- However, reversal of credit from buyer shall also be an option available with the revenue authorities to address exceptional situations.
- Against such verdict, the GST department had thereafter approached Supreme Court by challenging the ruling of Hon'ble High Court.

Ruling by SC

- The Supreme Court dismissed the Special Leave petition filed by the GST department by citing reason that it is not inclined to interfere in judgment passed by Hon'ble High Court.



Imp Fallouts from the Judgement

- SC accepted Calcutta High Court judgement and therefore matter is concluded in favor of the taxpayer.
- The said judgement was pertaining to F.Y. 2017-18. During such year, the GST Law had provided for different return filing system i.e. GSTR-1/GSTR-2/GSTR-3. All such returns were never implemented at the ground level
- Additionally, there were certain press releases which said automatic reversal of ITC would not be undertaken in case of GSTR 2A mismatch.
- On such grounds, the judgement was pronounced favorably in favor of the assessee for dispute pertaining to F.Y. 2017-18.



Important points

- However, w.e.f. October 2019, Rule 36 of GST Rules was amended to provide for matching of ITC along with GSTR 2A (to the extent of 80%/ 90%/ 95%).
- Further, w.e.f. January 2022, compulsory and 100% matching of ITC with GSTR 2B was mandated by way of amendment under CGST Act and corresponding rules.
- Therefore, it is yet to be seen whether afore mentioned Hon'ble supreme court decision can be applied years to years post F.Y. 2017-18 or not.
- Furthermore, based on decision, it appears relief may not be available in cases vendors who are absconding/ not traceble/ declared bankrupt or any such exceptional situation.



THANK YOU



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