



Gauhati High Court
Mcleod Russel India Ltd.



Mcleod Russel India Ltd. v. The Union of India
[TS-995-HC(GAUH)-2025-GST]

Date: 09 Dec 2025

Facts of the Case:

- The petitioner, Mcleod Russel India Ltd., challenged the constitutional validity of Section 16(2)(aa) of the CGST/AGST Acts which makes ITC availability contingent upon the supplier furnishing invoice details in GSTR-1.
- The petitioner argued that denial of ITC due to the supplier's default—despite the recipient having paid tax to the supplier—was arbitrary, placed an impossible burden on the buyer, and contradicted the GST objective of preventing cascading tax.
- The petitioner also relied on decisions such as Suncraft Energy, Diya Agencies, and Shanti Kiran, which protect bona fide purchasers from ITC denial caused by supplier non-compliance.



High Court Observations:

- The Court acknowledged that the objective behind Section 16(2)(aa) is to curb fraudulent ITC and ensure supplier compliance, and therefore did not strike down the provision as unconstitutional.
- However, the Court held that automatic denial of ITC to a bona fide purchaser due to supplier non-reporting in GSTR-1 is inequitable and contrary to GST's purpose.
- The Court ruled that before denying ITC, authorities must give the recipient an opportunity to prove bona fides through tax invoices and supporting documents.
- The Court "read down" Section 16(2)(aa) to prevent genuine taxpayers from suffering for factors entirely outside their control.



Our Comments:

- This judgment significantly strengthens the defence of genuine taxpayers facing ITC discrepancies due to non-compliant suppliers.
- Reading down Section 16(2)(aa) creates an important safeguard against arbitrary disallowance of ITC during audits, assessments, and scrutiny proceedings.
- Taxpayers should maintain robust documentation—invoices, goods receipt proofs, payment evidence, and follow-ups with suppliers—to establish bona fides in case of mismatch.
- In ongoing or future GST litigation, this decision can be cited to seek relief where ITC has been denied merely due to GSTR-2A/2B mismatch.



THANK YOU



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