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Bona Fide Recipient's ITC Cannot Be Denied Solely on Retrospective Cancellation of Supplier's GST Registration

The Hon'ble Madras High Court in *M/s. Fathima Traders v. The Deputy Commercial Tax Officer [W.P. Nos. 22419, 22420 & 22422 of 2023 dated June 12, 2026]* quashed the orders passed by the Adjudicating Authority denying Input Tax Credit ("ITC") to the Assessee solely on the ground that the supplier's GST registration had been cancelled with retrospective effect from July 01, 2017 and held that without examining whether the Assessee had established genuine supply of goods through invoices, e-way bills, lorry receipts and other supporting documents, the ITC claim could not have been rejected merely on the ground of retrospective cancellation of the supplier's registration.

Facts:

M/s. Fathima Traders ("**the Petitioner**") is a registered taxable person engaged in trading activities at Chennai. The Petitioner had availed ITC on inward supplies received from a registered supplier during the assessment periods 2019-20, 2020-21 and 2021-22.

The Deputy Commercial Tax Officer ("**the Respondent**") passed three orders dated June 05, 2023 ("**the Impugned Orders**") pertaining to the said three distinct assessment periods, whereby the ITC availed by the Petitioner was denied solely on the ground that the supplier's GST registration had been cancelled with retrospective effect from July 01, 2017. The supplier's registration was, however, actually cancelled by order dated December 06, 2022 and most of the underlying transactions had been undertaken prior to such cancellation.

Aggrieved by the Impugned Orders, the Petitioner filed writ petitions before the Hon'ble Madras High Court.

Contentions:

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The Petitioner submitted that the supplier was a duly registered taxable person on the dates when the relevant transactions took place and the ITC could not be denied merely because the supplier's registration was subsequently cancelled with retrospective effect. Reliance was placed on the earlier decision of the Hon'ble Madras High Court dated February 15, 2024 in ***M/s. Engineering Tools Corporation v. The Assistant Commissioner (ST), Vepery, Chennai [W.P. No. 3505 of 2024]***, wherein orders passed in substantially similar facts and circumstances had been set aside.

Per Contra, the Revenue contended that certain invoices issued by the supplier were post the actual cancellation date and that the Petitioner had failed to furnish documents demonstrating that the supplies were genuinely received.

Issue:

Whether ITC availed by the recipient can be denied solely on the ground that the supplier's GST registration was cancelled with retrospective effect, without independently examining the genuineness of the underlying supplies?

Held:

The Hon'ble Madras High Court in ***W.P. Nos. 22419, 22420 & 22422 of 2023*** held as under:

- **Observed that**, the registration of the Petitioner's supplier was admittedly cancelled by order dated December 06, 2022 and the Impugned Orders themselves record that most of the underlying transactions had occurred prior to such cancellation.
- **Noted that**, the Impugned Orders rejected the Petitioner's ITC claim solely on the ground of the retrospective cancellation of the supplier's GST registration, without examining whether the Petitioner had established genuine supply of goods through tax invoices, e-way bills, lorry receipts and other supporting documents.

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- **Held that**, following the earlier decision dated February 15, 2024 in *M/s. Engineering Tools Corporation* (supra), the Impugned Orders cannot be sustained as the Petitioner's ITC claim could not have been rejected solely on the ground of retrospective cancellation of the supplier's registration, without first examining whether the supplies were genuine and supported by relevant documentary evidence.
- **Directed that**, the Impugned Orders are set aside and the matter is remanded to the Adjudicating Authority for fresh consideration. A fresh order shall be issued within a period of three months from the date of receipt of a copy of the order, after providing a reasonable opportunity of being heard to the Petitioner.

Hence, **the matter was remanded back to the Adjudicating Authority.**

Our Comments:

Section 16 of the Central Goods and Services Tax Act, 2017 ("**the CGST Act**") prescribes the eligibility and conditions for availing ITC. As per Section 16(2) of the CGST Act, a registered person is entitled to ITC on inward supplies only if (i) he is in possession of a tax invoice or debit note; (ii) he has received the goods or services or both; (iii) the tax charged in respect of such supply has been actually paid to the Government either in cash or through the utilisation of ITC; and (iv) he has furnished the return under Section 39 of the CGST Act. Further, Section 29 of the CGST Act empowers the proper officer to cancel the registration of a taxable person, including with retrospective effect, in the circumstances enumerated therein.

The recurring controversy at the field level has been the wholesale denial of ITC to bona fide recipients in cases where the supplier's GST registration is subsequently cancelled with retrospective effect covering the period during which the underlying transactions were undertaken. Various High Courts have consistently held that the recipient cannot be saddled with the consequences of the supplier's subsequent default, particularly where the recipient has acted in good faith and is in possession of valid documentary evidence demonstrating the

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genuineness of the underlying transactions. The present ruling reinforces the principle that retrospective cancellation of the supplier's registration cannot, by itself, be the basis to deny ITC and the Adjudicating Authority is duty-bound to independently examine the genuineness of the supplies.

Pari Materia Judgments:

- The Hon'ble Madras High Court in ***M/s. Engineering Tools Corporation v. The Assistant Commissioner (ST), Vepery, Chennai [W.P. No. 3505 of 2024 dated February 15, 2024]***, being the very decision relied upon in the present case, held that the ITC of the recipient cannot be denied solely on the ground that the supplier's registration was cancelled with retrospective effect and directed the Adjudicating Authority to consider the genuineness of the transactions by examining tax invoices, e-way bills, lorry receipts, delivery challans, proof of payment and the like.
- The Hon'ble Calcutta High Court in ***Suncraft Energy Pvt. Ltd. v. Assistant Commissioner, State Tax [MAT No. 1218 of 2023 dated August 02, 2023]*** held that the demand cannot be raised on the bona fide recipient on account of the supplier's default without first proceeding against the defaulting supplier and that ITC cannot be denied merely on the ground of mismatch between GSTR-2A and GSTR-3B. The Hon'ble Supreme Court vide its order dated December 14, 2023 dismissed the SLP filed by the Revenue, thereby affirming the said view.
- The Hon'ble Calcutta High Court in ***LGW Industries Ltd. & Ors. v. Union of India & Ors. [W.P.A. No. 23512 of 2019 dated December 13, 2021]*** held that bona fide purchasers who had transacted with the registered suppliers prior to the cancellation of their registration cannot be denied ITC merely on the ground of subsequent retrospective cancellation, provided the genuineness of the transactions is duly established.

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- The Hon'ble Madras High Court in ***M/s. D.Y. Beathel Enterprises v. State Tax Officer [W.P.(MD) No. 2127 of 2021 dated February 24, 2021]*** quashed the order denying ITC to the recipient and held that the Department ought to have first proceeded against the defaulting supplier where the tax collected had not been remitted to the exchequer, before denying ITC to the recipient.
- The Hon'ble Delhi High Court in ***On Quest Merchandising India Pvt. Ltd. v. Government of NCT of Delhi [W.P.(C) No. 6093 of 2017 dated October 26, 2017]*** held in the context of DVAT that bona fide purchasers cannot be denied ITC merely because the selling dealer failed to deposit the tax with the exchequer, where the purchaser has discharged its tax liability and fulfilled all the prescribed conditions.
- The Hon'ble Calcutta High Court in ***Sanchita Kundu & Anr. v. Assistant Commissioner of State Tax [W.P.A. No. 7231 of 2022 dated April 12, 2022]*** also reiterated that ITC of the bona fide purchaser cannot be denied where the purchaser has produced documentary evidence such as tax invoices, e-way bills, transportation records and proof of payment, and the action should be taken against the erring supplier.

In light of the above, the present ruling reaffirms the well-settled judicial position that the Revenue cannot mechanically deny ITC to bona fide recipients on the basis of subsequent retrospective cancellation of the supplier's registration. The Adjudicating Authority is duty-bound to independently examine the genuineness of the underlying supplies by appreciating the tax invoices, e-way bills, lorry receipts, proof of payment of consideration along with applicable GST and other corroborative evidence, before drawing any adverse inference against the recipient. Taxpayers receiving such adverse orders may seek similar relief, while ensuring that adequate documentary evidence of the genuineness of supplies is maintained and produced before the Adjudicating Authority.

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(Author can be reached at info@a2ztaxcorp.com)

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