



ITC cannot be denied where transactions are supported by valid documents, remands matter

LGW Industries Ltd & Ors. vs. Union of India & Ors.

Calcutta HC remands the matter to GST Authorities to consider afresh the case of Assessee on issue of their entitlement of benefit of ITC by considering the documents relied upon by Assessee to support their claim of genuineness of the transactions; Also, directs Revenue to consider as to whether payments on purchases in question along with GST were actually paid or not to the suppliers (and also to consider as to whether the transactions and purchases were made before or after cancellation of registration of suppliers and also consider as to compliance of statutory obligation by Assessee in verification of identity of suppliers; Considers Assessee's contention that they have paid the amount of purchases in question as well as tax on the same not in cash and all transactions were through banks and they are helpless if at some point of time after transactions were over, if the Revenue finds on enquiries that the suppliers are fake and bogus and on this basis they cannot be penalized unless Revenue establishes with concrete materials that transactions in question were outcome of any collusion between Assessee and suppliers in question; Envisages that subject to further verification, it cannot be said that there was any failure on part of Assessee in compliance of any obligation required under Statute before entering transactions in question or for verification of genuineness of suppliers in question; Elucidates that if on consideration of relevant documents it is found that all purchases and transactions in question are genuine and supported by valid documents and transactions in question were made before cancellation of registration of those suppliers, benefit of ITC shall be given to Assessee:HC CAL

Decision Summary

The order was passed by Justice Md. Nizamuddin.

Advocates Vinay Kumar Shraff, Himangshu Kumar Ray, Ankit Kanoria, Priya Sarah Paul, along with a Battery of Advocates appeared on behalf of the Assessee, whereas Revenue was represented by ASG Y.J. Dastoor along with Advocates S. Bhattacharya, V. Kundalia, S. Lahiri and a Battery of Advocates.

Assessee was aggrieved by the impugned notices issued by Revenue for not allowing the Assessee, who are the purchasers of the goods in question and refusing to grant the benefit of input tax credit (ITC) on purchase from the suppliers and also asking the Assessee to pay penalty and interest under relevant provisions of GST Act.

Assessee contended that the transactions in question were genuine and valid by relying upon all the supporting relevant documents required under law and with their due diligence have verified the genuineness and identity of the suppliers in question and more particularly the names of those suppliers as registered taxable person were available at the Government portal showing their registrations as valid and existing at the time of transactions in question.



Assessees submitted that they had limitation on their part in ascertaining the validity and genuineness of the suppliers in question and they had done whatever possible in this regard and more so, when the names of the suppliers as a registered taxable person were already available with the Government record and in Government portal at the relevant period of transaction Assessees could not be faulted if they appeared to be fake later on.

Assessees further submit that they have paid the amount of purchases in question as well as tax on the same not in cash and all transactions were through banks and they are helpless if at some point of time after the transactions were over, if the Revenue concerned finds on enquiries that the aforesaid suppliers (RTP) were fake and bogus and on this basis Assessees could not be penalized unless the Revenue established with concrete materials that the transactions in question were the outcome of any collusion between the Assessee and the suppliers in question.

Assessees further submitted that all the purchases in question invoices-wise were available on the GST portal in form GSTR-2A which were matters of record.

HC observations:

HC on consideration of facts, envisaged that subject to further verification it cannot be said that there was any failure on the part of the Assessee in compliance of any obligation required under the statute before entering the transactions in question or for verification of the genuineness of the suppliers in question.

HC remanded the matter to Revenue to consider afresh the cases of the Assessees on the issue of their entitlement of benefit of input tax credit in question by considering the documents which the Assessees want to rely upon in support of their claim of genuineness of the transactions in question.

HC directed Revenue to also consider as to whether payments on purchases in question along with GST were actually paid or not to the suppliers (RTP) and also to consider as to whether the transactions and purchases were made before or after the cancellation of registration of the suppliers and also consider as to compliance of statutory obligation by the Assessees in verification of identity of the suppliers.

HC stated that if it is found that all the purchases and transactions in question are genuine and supported by valid documents and transactions in question were made before the cancellation of registration of those suppliers, the benefit of input tax credit in question shall be given to the Assessee.

HC thus, disposed of the writ.