

TAX FLASH NEWS

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Mere production of invoices and payment by cheque is not sufficient to claim the input tax credit

The Supreme Court of India¹, in the context of Karnataka VAT (KVAT) Act, 2003 has held that the dealer claiming input tax credit has to prove beyond doubt the actual transaction by furnishing the name and address of the selling dealer, details of the vehicle which has delivered the goods, payment of freight charges, acknowledgement of taking delivery of goods, tax invoices and payment particulars, etc. Mere production of the invoices and/or payment by cheque will not be sufficient.

Facts of the case

- The respondent (Purchasing Dealer) purchased green coffee beans from other dealers for sale. The Assessing Officer disallowed input tax credit under the KVAT Act, 2003 for the Assessment Year 2010-11 on the grounds that the Purchasing Dealer had claimed input tax credit from sellers who were found to be de-registered, non-return filers and sellers who outrightly denied any sale.
- The Appellate Authority confirmed the findings of the Assessing Officer. However, the Tribunal allowed the second appeal on the ground that the Purchasing Dealer purchased the coffee from the registered dealer under genuine tax invoices and consequently allowed the input tax credit claimed. The High Court upheld the decision of the Tribunal.
- The State of Karnataka filed an appeal before the Supreme Court of India.

Revenue's contentions

- Duty is cast upon the purchasing dealers to prove the transactions which, in the present case, the purchasing dealers failed to discharge.
- The burden required to be discharged is higher than showing financial transfers and should show the actual movement of goods.
- Mere production of invoices or even payment to the seller by cheque cannot be said to be sufficient and may not be said to discharge the burden to claim the input tax credit under section 70 of the KVAT Act, 2003.
- The actual movement of goods is required to be established and proved over and above the invoices, payment by cheques and actual payment to the seller.
- The High Court erred in observing that if the seller of the goods from whom the dealer has purchased does not deposit such tax, the Purchasing Dealer cannot be held liable for that.

Dealers' contentions

- Once the dealer has discharged the burden cast under section 70 of the KVAT Act, 2003, the purchasing dealer is entitled to input tax credit and if at all it is found that a tax is not paid by the seller, the same can be recovered from the seller.
- Dealers have discharged the burden of proof cast under section 70 of the KVAT Act, 2003 by producing valid invoices and making the payment online to the supplier.
- Neither the KVAT Act nor the Rules provide for any other document or any other obligation which are statutorily required for the purposes of establishing the claim towards the input tax credit.

¹ The State of Karnataka v. Ecom Gill Coffee Trading Private Limited [2023-VIL-20-SC]

- Once the purchasing dealer demonstrates that it has complied with such requirement, the input tax credit cannot be denied merely because the selling dealer fails to discharge its obligation under the KVAT Act.

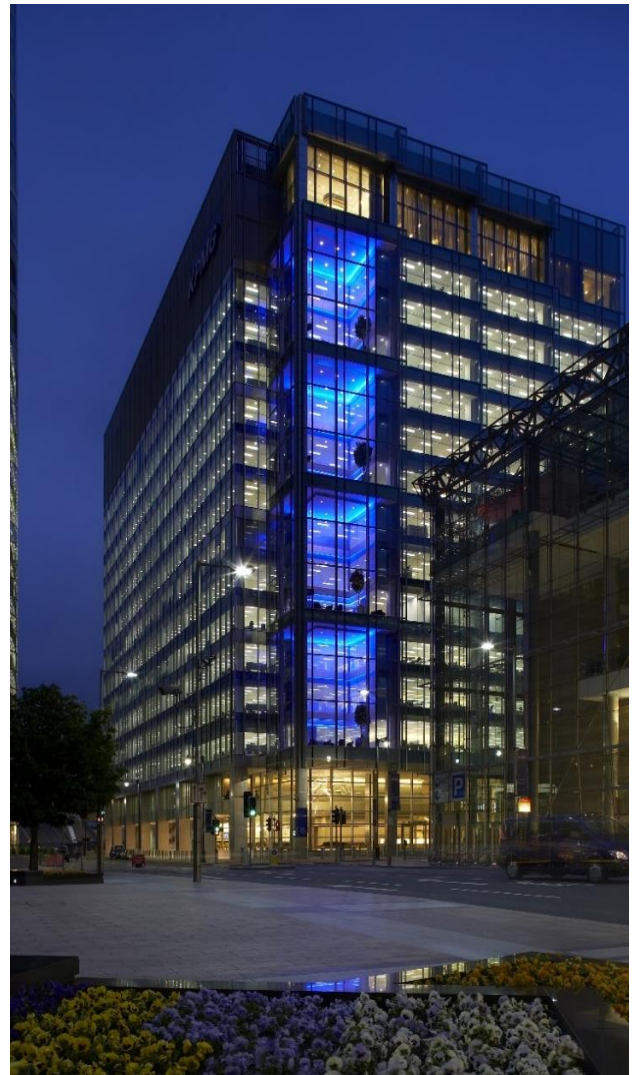
Supreme Court's decision

The Supreme Court quashed and set aside the decision of the High Court, which had allowed the input tax credit to the Purchasing Dealer. In light of section 70 (burden of proof) of the KVAT Act, 2003, the prominent inferences pronounced by the Supreme Court are as follows:

- The burden of proving that the input tax credit claim is correct lies upon the purchasing dealer claiming such input tax credit. Such a burden cannot be shifted on the Revenue.
- Mere production of the invoices or the payment made by cheques is not enough and cannot be said to be discharging the burden of proof cast under section 70 of the KVAT Act, 2003.
- The dealer claiming input tax credit has to prove beyond doubt the actual transaction which can be proved by furnishing the name and address of the selling dealer, details of the vehicle which has delivered the goods, payment of freight charges, acknowledgement of taking delivery of goods, tax invoices and payment particulars, etc.
- If a dealer claims input tax credit on purchases, such dealer/purchaser will have to prove and establish the actual physical movement of goods.

Our comments

The Supreme Court, in this case, observed that the Assessing Officer doubted the genuineness of the transactions by placing material on record and in none of the cases, the Purchasing Dealer produced any supporting material. Though the above decision is based on specific facts of this case, the tax authorities may follow this and insist for several documents in support of a transaction where the vendor is non-compliant.



KPMG in India addresses:

Ahmedabad

Commerce House V, 9th Floor,
902, Near Vodafone House, Corporate Road,
Prahlad Nagar,
Ahmedabad – 380 051.
Tel: +91 79 4040 2200

Bengaluru

Embassy Golf Links Business Park,
Pebble Beach, 'B' Block,
1st & 2nd Floor,
Off Intermediate Ring Road, Bengaluru – 560071
Tel: +91 80 6833 5000

Chandigarh

SCO 22-23 (1st Floor),
Sector 8C, Madhya Marg,
Chandigarh – 160 009.
Tel: +91 172 664 4000

Chennai

KRM Towers, Ground Floor,
1, 2 & 3 Floor, Harrington Road,
Chetpet, Chennai – 600 031.
Tel: +91 44 3914 5000

Gurugram

Building No.10, 8th Floor,
DLF Cyber City, Phase II,
Gurugram, Haryana – 122 002.
Tel: +91 124 307 4000

Hyderabad

Salarpuria Knowledge City,
6th Floor, Unit 3, Phase III,
Sy No. 83/1, Plot No 2, Serilingampally
Mandal,
Ranga Reddy District,
Hyderabad – 500 081.
Tel: +91 40 6111 6000

Jaipur

Regus Radiant Centre Pvt Ltd.,
Level 6, Jaipur Centre Mall,
B2 By pass Tonk Road,
Jaipur – 302 018.
Tel: +91 141 - 7103224

Kochi

Syama Business Centre,
3rd Floor, NH By Pass Road,
Vytila, Kochi – 682 019.
Tel: +91 484 302 5600

Kolkata

Unit No. 604,
6th Floor, Tower – 1,
Godrej Waterside,
Sector – V, Salt Lake,
Kolkata – 700 091.
Tel: +91 33 4403 4000

Mumbai

2nd Floor, Block T2 (B Wing),
Lodha Excelus, Apollo Mills Compound, N M
Joshi Marg, Mahalaxmi, Mumbai- 400011
Tel: +91 22 3989 6000

Noida

Unit No. 501, 5th Floor,
Advant Navis Business Park,
Tower-A, Plot# 7, Sector 142,
Expressway Noida,
Gautam Budh Nagar,
Noida – 201 305.
Tel: +91 0120 386 8000

Pune

9th floor, Business Plaza,
Westin Hotel Campus, 36/3-B,
Koregaon Park Annex,
Mundhwa Road, Ghorpadi,
Pune – 411 001.
Tel: +91 20 6747 7000

Vadodara

Ocean Building, 303, 3rd Floor,
Beside Center Square Mall,
Opp. Vadodara Central Mall,
Dr. Vikram Sarabhai Marg,
Vadodara – 390 023.
Tel: +91 265 619 4200

Vijayawada

Door No. 54-15-18E,
Sai Odyssey,
Gurunanak Nagar Road, NH 5,
Opp. Executive Club, Vijayawada,
Krishna District,
Andhra Pradesh – 520 008.
Tel: +91 0866 669 1000

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KPMG Assurance and Consulting Services LLP, Lodha Excelus, Apollo Mills Compound, NM Joshi Marg, Mahalaxmi, Mumbai - 400 011 Phone: +91 22 3989 6000, Fax: +91 22 3983 6000

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