

ITC should not be disallowed because of entering the wrong GSTIN number of the recipient in Form GSTR-1

The Hon'ble Allahabad High Court in the case of M/s. Shree Krishna Traders v. State of UP and Another [Writ Tax No. 1106 of 2023 dated September 25, 2023] disposed of the writ petition, by setting aside the Impugned Order and remitting the matter back to the Revenue Department for adjudication, thereby directing the Revenue Department to pass the fresh orders by taking into consideration the circular, in the case where the ITC was disallowed due to difference in Form GSTR-3B and Form GSTR-2A caused because of entering wrong GSTIN number of the recipient in Form GSTR-1.

Facts:

M/s. Shree Krishna Traders ("the Petitioner") has filed the writ petition challenging the proceedings initiated under Section 74 of the Central Goods and Services Tax Act, 2017 ("the CGST Act"), by issuance of Notice dated December 24, 2022, by the Revenue Department ("the Respondent") for the FY 2017-2018 for the tax period of July 2017 to March 2018.

The Petitioner has also prayed for the quashing of the Order dated July 26, 2023 ("the Impugned Order") passed under section 74 of the UP GST/CGST Act for the FY 2017-2018. The Counsel for the Petitioner contended that, as per Circular No. 183/15/2022-GST dated December 27, 2022 ("the Circular"), in cases where the supplier has filed Form GSTR-1 as well as return in Form of GSTR-3B for the tax period, but has declared the supply with the wrong GSTIN of the recipient in the Form GSTR-1, the procedure provided under Para 4 of the circular is to be complied with when there is a difference in ITC claimed by the registered person in his return form in GSTR-3B and ITC available in GSTR-2A. The Petitioner also submitted that, the proper officer of the actual recipient shall intimate the concerned jurisdictional tax authority of the registered person, whose GSTIN has been mentioned wrongly, that ITC on those transactions is required to be disallowed if claimed by the recipient in the Form GSTR-3B. However, the allowance of ITC to the actual recipient does not depend on the completion of the action by the tax authority of such registered person, and such action should be pursued as independent action. The Petitioner further submits that, the Respondent was required to follow certain procedures as laid down in para 4 of the Circular. The Petitioner also submits that, as per Impugned Order, the Petitioner has not been granted the benefit under the Circular. Therefore, the Petitioner prays for setting aside of Impugned Order and remitting the matter back to the Respondent for afresh decision.

Issue:

Whether ITC should be disallowed because of entering the wrong GSTIN number of the recipient in Form GSTR-1?

Held:

The Hon'ble Allahabad High Court in the case of Writ Tax No. 1106 of 2023 held as under:

- Noted that, the Respondent accepts the submission made by the Respondent, and submitted that the matter may be remitted back to the concerned authority for a fresh decision.

- Held that, the Impugned Order is set aside, and matter be remitted back to the Respondent. Hence, the writ petition is disposed of.
- Directed that, the Respondent shall pass fresh orders within a period of one month from today, taking into consideration the Circular and other material relied upon by the Petitioner supporting the case.