ITC Cannot Be Denied To A Bona Fide Purchaser For Seller's Failure To File GST Returns, Absent Collusion

Case Reference:

Advance Engineering Farms and Equipment's v. State of Assam - Gauhati High Court - WP(C)/4312/2024 [Date of Judgement – 16th July 2026]

Facts:

Advance Engineering Farms and Equipment's had purchased generators from a registered supplier and paid the sale consideration including GST for FY 2017-18. It claimed ITC on the transaction, but the authorities rejected the claim after the supplier failed to submit GST returns, raising a demand for tax, interest and penalty against the purchaser. The supplier's representative confirmed that GST had been collected from the petitioner but not deposited/returned. No collusion between the parties was alleged or shown.

Issue Involved:

Whether ITC can be denied to a bona fide purchaser u/s 16(2)(c) and 16(2)(d) of the GST Act, 2017, solely because the selling dealer failed to deposit tax or file returns.

Decision:

- The Court held the purchaser couldn't be penalised for the seller's default to file return absent proof of collusion.
- Relying on National Plasto Moulding v. State of Assam, it held that Sections 16(2)(c) and 16(2)(d) of the Assam GST Act must be read down so that a bona fide purchaser — with valid tax invoices and proof of payment — cannot be denied ITC merely because the seller failed to deposit tax or file returns.
- This drew support from the Delhi HC's ruling in On Quest Merchandising India Pvt. Ltd., which held that a purchaser cannot be refused ITC for the seller's default unless collusion is proven; the department's remedy lies against the defaulting seller instead.
- The rectification order raising CGST/SGST demands of Rs. 1,60,506 each was set aside, with recovery to be pursued against the defaulting seller instead.