# Judicial Affirmation of Bona Fide Credit Entitlement: A Landmark Supreme Court Ruling

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The Supreme Court of India, in the matter of *Commissioner of Trade & Tax, Delhi v. M/s Shanti Kiran India (P) Ltd.* (judgment dated 9 October 2025), upheld the principle that a bona fide purchasing dealer cannot be denied Input Tax Credit (ITC) merely due to the selling dealer's failure to deposit collected tax. Affirming the Delhi High Court's earlier ruling in *Quest Merchandising* and the constitutional doctrine under Article 14, the Supreme Court held that the responsibility for non-payment of tax rests with the defaulting seller and not the purchaser who has complied with statutory obligations.

This ruling, though pronounced under the Delhi VAT Act, has far-reaching consequences under the Goods and Services Tax (GST) framework, particularly with respect to Section 16(2)(c) of the CGST Act, 2017, which similarly requires that tax collected must be "actually paid to the Government" for ITC availment. Several High Courts, including in *Bharti Telemedia*, *D.Y. Beathel*, and *Suncraft Energy*, have applied identical reasoning, reiterating that ITC cannot be denied to a genuine purchaser without establishing collusion or fraud.

Therefore, the judgment establishes an important precedent supporting input tax neutrality, protection of bona fide taxpayers, and equitable tax administration, preventing authorities from shifting the burden of departmental recovery failures onto honest businesses.

## Introduction

The judgment of the Supreme Court of India dated 9 October 2025 in Commissioner of Trade & Tax, Delhi v. M/s Shanti Kiran India (P) Ltd. marks a significant reaffirmation of the principle of fairness and bona fide credit entitlement in indirect taxation. The issue, whether a purchasing dealer can be denied Input Tax Credit (ITC) merely because the selling dealer failed to deposit tax with the Government, resonates strongly with ongoing disputes under the Goods and Services Tax (GST) regime. This decision reinforces the foundational objective of ease of doing business, ensuring that genuine buyers should not be penalised by way of disallowing Input Tax Credits due to non-compliance made by the selling dealer which is beyond their control.

## Case Background and Facts

Under the Delhi Value Added Tax Act, 2004 (DVAT Act), M/s Shanti Kiran India (P) Ltd., a registered dealer, had paid VAT to its sellers on valid invoices. On the date of transaction, the registration of the sellers was valid. However, later on, their registration was cancelled and thereby, they failed to deposit the tax to the department. As the sellers failed to remit the tax to the Government, the Department denied ITC in the hands of recipient under Section 9(2)(g) of the Delhi Value Added Tax Act, 2004, which allows input tax credits to purchasing dealer only if the selling dealer has deposited tax. Therefore, the principle issue to be dealt with by the judiciary was-

Whether ITC is available to the registered purchasing dealers (the respondents) who met the following conditions:

- They paid taxes to registered seller dealer(s) in accordance with the invoices raised by them.
- They were identified as bona fide purchaser dealer(s) who had paid taxes in good faith to registered seller dealer(s).
- The seller dealer(s) were registered with the Department on the date of the transaction.

The Hon'ble Delhi High Court, following the judgement in the case of *Quest Merchandising India Pvt. Ltd. v. Govt. of NCT of Delhi (2017)*, held that bona fide purchasers cannot be denied ITC merely because the seller defaulted. In this regard, while passing the judgement in favour of the dealer, the Hon'ble Delhi High Court has held that-

- The expression "dealer or class of dealers" occurring in Section 9(2)(g) should be interpreted as not including a purchasing dealer who has bona fide entered into purchase transactions with validly registered selling dealers who issued tax invoices where there is no mismatch between Annexure 2A and 2B of Delhi VAT Return.
- The Department was precluded from invoking Section 9(2)(g) of the DVAT to deny ITC to a purchasing dealer who has bona fide entered into a purchase transaction with a registered selling dealer who issued a tax invoice reflecting the Taxpayer Identification Number (TIN).
- If the selling dealer failed to deposit the tax collected, the proper remedy for the Department was to proceed against the defaulting selling dealer to recover the tax, and not to deny the purchasing dealer the ITC.
- The Department could, however, proceed under Section 40A of the DVAT Act if material showed that the purchasing dealer and the selling dealer acted in collusion.

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Being aggrieved by the said judgement of the Hon'ble Delhi High Court, the Delhi State VAT Department appealed to the Hon'ble Supreme Court.

## Supreme Court's Findings

A two-judge bench comprising Justice Manoj Misra and Justice Nongmeikapam Kotiswar Singh upheld the Hon'ble Delhi High Court's view and dismissed the Department's appeal. The Hon'ble Supreme Court ultimately found no good reason to interfere with the order of the Hon'ble Delhi High Court, directing the department to grant ITC benefit to the purchasing dealer after due verification of invoices. While passing the judgement, the Hon'ble Supreme Court has noted that in the appeals before it, there was no dispute that the selling was registered on the date of the transaction. Furthermore, neither the transactions nor the invoices in question had been doubted by the department based on any inquiry into their veracity.

## Legal Reasoning and Constitutional Perspective

The Delhi High Court had earlier read down Section 9(2)(g) to avoid constitutional invalidity under Article 14 of the Constitution of India. A literal interpretation would have made a purchaser vicariously liable for another's default. The Court, therefore, held that ITC should be denied only where collusion or fraud exists. The Hon'ble Supreme Court upheld this reasoning, reinforcing that a bona fide purchaser cannot be penalised for the seller's delinquency.

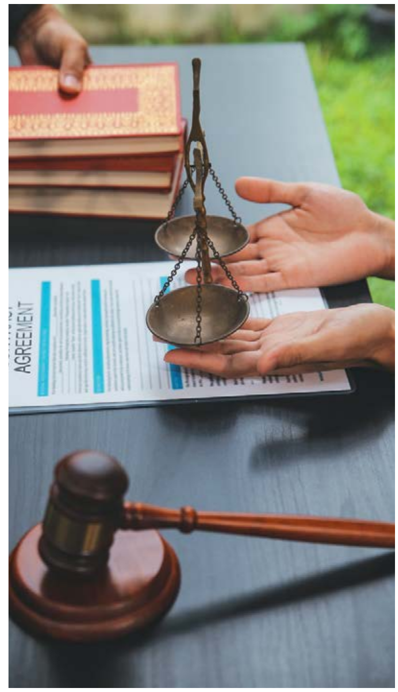
## Relevance under the Goods and Services Tax (GST) Regime

Though the judgment of the Hon'ble Supreme Court is purely dealing with a VAT case under provisions of the Delhi VAT Act, the principles laid down here have immense importance in the GST era as well. The principles established under VAT law remain directly relevant to Section 16 of the CGST Act, 2017 which deals with eligibility conditions to be satisfied for availing input tax credits. In the said Section, sub-section (2)(c) mandates that tax charged by the supplier must have been 'actually paid to the Government', either through Cash or by adjustment of Input Tax Credit. Therefore, the issue here is identical in the GST regime also i.e., can the ITC be denied in the hands of the bona fide recipient if the supplier makes a default in making payment of tax charged by them. Recent High Court decisions under GST, such as Bharti Telemedia Ltd. (2021), D.Y. Beathel Enterprises (2021), and Suncraft Energy (2023), have echoed similar reasoning, holding that bona fide purchasers should not be denied ITC, and that the Department must proceed against the defaulting supplier. Even further, in Suncraft Energy's case, the Hon'ble Calcutta High Court has taken the same reference from Section 9(2)(g) of the Delhi VAT Act while deciding the issue whether GST ITC can be disallowed in the hands of the bona fide purchaser simply because the same was not uploaded by the supplier in their GSTR-1. While deciding the issue, the Hon'ble Calcutta High Court has kept reliance on the judgment of *Arise India Limited and Ors. Versus Commissioner of Trade and Taxes, Delhi and Ors. MANU/DE/3361/2017* and states that-

*"the challenge was to the constitutional validity of Section 9(2)(g) of the Delhi Value Added Tax Act, 2004 (DVAT Act) as being violative of Article 14 of 19(g) of the Constitution of India. Section 9(2) of the DVAT Act sets out the conditions under which tax credit or ITC would not be allowed. Sub-clauses (a) to (f) specify certain kinds of purchase which would not be eligible for the claim of ITC. Clause (g) of the Section 9(2) of the DVAT Act states that to the dealers or class of dealers unless the tax paid by the purchasing dealer has actually been deposited by the selling dealer with the Government or has been lawfully adjusted against output tax liability and correctly reflected in the return filed for the respective tax period, would not be eligible for claim of ITC. The question that arose for consideration was as to whether for the default committed by the selling dealer can the purchasing dealer be made to bear the consequences of the denying the ITC and whether it is the violation of Article 14 of the Constitution. After taking note of the language used in Section 9(2)(g) of the DVAT Act where the expression "dealer or class of dealers" occurring in Section 9(2)(g) of the DVAT Act should be interpreted as not including a purchasing dealer who has bona fide entered into purchase transaction with validly registered selling dealer who have issued tax invoices in accordance with Section 15 of the said Act where there is no mismatch of transactions in Annexures 2A and 2B and unless the expression "dealer or class of dealers" in Section 9(2)(g) is read down in the said manner, the entire provision would have to be held to be violative of Article 14 of the Constitution. It was further held that the result of such reading down would be that the department is precluded from invoking Section 9(2)(g) of DVAT Act to deny the ITC to the purchasing dealer who had bona fide entered into a purchase transaction with the registered selling dealer who had issued a tax invoice reflecting the TIN number and in the event that the selling dealer has failed to deposit the tax collected by him from the purchasing dealer, the remedy for the department would be to proceed against a defaulting selling dealer to recover such tax and not denying the purchasing dealer the ITC. It was further held that where however, the department is able to come across material to show that the purchasing dealer and the selling dealer acted in collusion then the department can proceed under Section 40A of the DVAT Act. With the above conclusion, the default assessment orders of tax interest and penalty were set aside. The decision in Arise India Limited was challenged before the Hon'ble Supreme Court by the Government in Commissioner of Trade and Taxes, Delhi Versus Arise India Limited and the special leave petition was dismissed by judgment dated 10.01.2018, reported in MANU/SCOR/01183/2018. Though the above decision arose under the provisions of the Delhi Value Added Tax Act, the scheme of availment of Input Tax Credit continues to remain the same even under the GST regime though certain procedural modification and statutory forms have been made mandatory." (Para 6)*

**"A taxpayer who has acted bona fide, purchased from a registered supplier, made payment to the said supplier along with GST, and paid tax on its own output tax liability should not be deprived of ITC merely because the supplier failed to remit it."**

Therefore, in the case of Suncraft Energy, the Hon'ble Calcutta High Court has kept reliance on a judgement of the Hon'ble Delhi High Court, wherein Section 9(2)(g) of the Delhi VAT Act has been held as violation of Article 14 of the Constitution of India. Further, the Hon'ble Calcutta High Court has also stated that though the decision in the case of Arise India Limited arose under the provisions of the Delhi VAT Act, the same is squarely applicable in the GST regime also, because the scheme of availment of ITC in the GST regime is exactly the same as under the earlier law, subject to changes in some statutory forms and procedural modifications.




## Conclusion

Based upon the above, it can be concluded that the Hon'ble Supreme Court's judgment in Shanti Kiran India (P) Ltd. delivers more than a VAT-era clarification. It lays down a constitutional principle for the entire indirect tax systems, including GST. A taxpayer who has acted bona fide, purchased from a registered supplier, made payment to the said supplier along with GST, and paid tax on its own output tax liability should not be deprived of ITC merely because the supplier failed to remit it. This judgment affirms the concept of input tax neutrality, protecting genuine taxpayers and reinforcing equitable administration of tax laws. Taking the same view of the Hon'ble Calcutta High Court in Suncraft Energy's Case, a bona fide taxpayer in the GST regime can always take reference of this judgment to prove his bona fide.

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