

HC: ITC Cannot Be Denied to Purchaser Due to Seller's Failure to Remit Tax.

CA Prakash Chandra Jain

P.O. Brajrajnagar
Odisha- 768216
Cell: 94375-41690 / 70087-12242
Email: prakashchjain@yahoo.co.in



REFER THE DECISION OF THE HON'BLE GAUHATI HIGH COURT IN THE CASE OF

McLeod Russel India Ltd. V/s Union of India, decided on 27-2-2025

Key Issues:

Is ITC Available to the Buyer Even If the Seller Fails to Deposit the Collected Tax?

The Hon'ble High Court Judgement:

The assessee contested the validity of Sections 16(2)(aa) and 16(2)(c) of the CGST and ASGST Acts. In line with the judgment delivered in WP(C) 2863/2022 dated 05.08.2024, the Court determined that Section 16(2) should be interpreted in a limited manner. When the selling dealer fails to deposit the tax collected from the buyer, the department's remedy lies in pursuing recovery from the defaulting seller. Denial of ITC to the purchasing dealer in such circumstances is not justified.

Section 16(2) of Central Goods and Services Tax Act, 2017