

No IGST credit is required to be reversed when credit is wrongly claimed instead of CGST and SGST

The Hon'ble Calcutta High Court in the case of *M/s. Cosyn Limited v. Assistant Commissioner of State Tax [M.A.T. NO. 2411 OF 2023 dated April 30, 2024]* held that there is no requirement to reverse the Integrated Goods and Services Tax (“IGST”) credit where the Assessee had availed IGST credit and subsequently used the same for payment of the Central Goods and Service Tax (“CGST”) and the State Goods and Services Tax (“SGST”), on utilization of IGST for payment of SGST.

Facts:

M/s Cosyn Limited (“**the Petitioner**”) had availed IGST credit in February, 2018 to the tune of Rs. 1,50,53,298/-.

According to the Petitioner, the IGST Input Tax Credit (“ITC”) to the tune of Rs.1,31,45,290.00 pertaining to the invoices 1Z11801869 and 1Z11801870 both dated February 16, 2018 and raised by M/s Mphasis Limited (“**the Respondent**”) were included in it. However, no mention of the same is found in FORM GSTR 2A for February 2018. The number and date of the Invoices are different with respect to the original ones upon which the Petitioner has claimed ITC.

The Petitioner had availed ITC of IGST once only in February 2018 and also that his Telangana branch has availed no IGST of ITC with respect to any of the Invoices. However, while uploading returns for the months of April, 2018, May, 2018 and August, 2018, the Petitioner utilized IGST of ITC to the tunes of Rs.30,98,035.00, Rs.16,86,842.00 and Rs.15,86,476.00 respectively by setting off his respective SGST liabilities. So total IGST of ITC to the tune of Rs.63,71,353.00 availed in 2017-2018 has been adjusted with SGST liability for the period 2018-2019.

An Assessment Order dated August 21, 2023 (“**the Impugned Order**”) was passed against such utilization and it was contended that ITC, which is utilized for payment of SGST was to be

transferred and appropriated to the respective State. Therefore, on utilization of ITC of IGST for payment of WBGST, the tax had flown to the State of West Bengal.

A writ petition was filed by the Petitioner challenging the Impugned Order passed under the West Bengal Goods and Services Tax Act, 2017 (**“the WBGST Act”**) which was dismissed on the ground that it was an appealable order.

The intra-court directed an Order against an Order dated December 4, 2023.

Thereafter, an appeal was filed and subsequently heard on December 22, 2023. The Impugned Order was granted stay subject to the condition that the Petitioner deposits 10% of the disputed tax within a time frame, which condition was complied with.

Hence, an interlocutory application was filed by the Applicant.

Issue:

Whether IGST credit is required to be reversed when credit is wrongly claimed instead of CGST and SGST?

Held:

The Hon’ble Calcutta High Court in ***M.A.T. NO. 2411 OF 2023*** held as under:

- Directed that, the Respondent to refund the 10% pre-deposit made by the Petitioner pursuant to the Interim Order within 8 weeks from the date of receipt of the order.
- Held that, the Impugned Order which was the subject matter of challenge in the writ petition no longer survives and was set aside. Hence, the appeal was allowed, the Order passed in the writ petition was set aside and the writ petition was allowed.

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