

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

---

Volume 9 | Issue 3

---

2026

© 2026 International Journal of Law Management & Humanities

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

---

This article is brought to you for free and open access by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of any **suggestions or complaints**, kindly contact [support@vidhiaagaz.com](mailto:support@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Recipient's Loss of Input Tax Credit due to Supplier Default under GST: Legal Framework, Judicial Divergence, and the Path to Resolution

---

VIPIN KUMAR SINGHAL\* AND DR. AJAY KUMAR\*\*

## ABSTRACT

*When India introduced the Goods and Services Tax on 1 July 2017, the design promised a single, unified tax on the supply of goods and services with a seamless chain of credit flowing from supplier to recipient. One provision, Section 16(2)(c) of the Central Goods and Services Tax Act, 2017, has nonetheless become a recurring source of hardship and constitutional anxiety, because it conditions a registered recipient's final retention of Input Tax Credit on the tax charged by its supplier having been actually paid to the Government, an outcome the recipient can neither compel nor verify. This paper traces the full arc of the problem: the statutory text of Section 16(2)(c) and its pre-GST doctrinal foundations, the divergent High Court rulings that have produced an unstable legal landscape, the constitutional arguments advanced on both sides under Articles 14, 19(1)(g), 265, and 300A, and a proposed framework through which the Supreme Court might and should resolve the conflict. It argues for upholding the provision as valid legislation while requiring procedural safeguards that protect bona fide recipients from permanent denial of credit for a default attributable exclusively to the supplier.*

**Keywords:** Goods and Services Tax, Input Tax Credit, Section 16(2)(c), supplier default, bona fide recipient, constitutional validity, judicial divergence.

## I. INTRODUCTION

When India rolled out the Goods and Services Tax ('GST') on 1 July 2017, the promise was straightforward: a single, unified tax on the supply of goods and services, with a seamless chain of credit flowing from supplier to recipient so that tax is collected only on value addition and not compounded at every stage of commerce. For most businesses, that promise has largely been kept. One provision, however, Section 16(2)(c) of the Central Goods and Services Tax Act,

---

\* Author is a Research Scholar at the Faculty of Legal Studies, HRIT University, Ghaziabad, Uttar Pradesh, India.

\*\* Author is a Professor and Dean at the Faculty of Legal Studies, HRIT University, Ghaziabad, Uttar Pradesh, India.

2017<sup>1</sup> ('CGST Act'), has become a recurring source of hardship, litigation, and genuine constitutional anxiety. As a condition for a registered recipient to finally retain Input Tax Credit ('ITC'), it requires that the tax charged by its supplier must have been 'actually paid to the Government'. The difficulty is that a recipient has no means of compelling, or even verifying, that this has occurred.

ITC is the structural heart of any value-added tax. Section 16(1) of the CGST Act<sup>2</sup> entitles every registered person to take credit of input tax charged on supplies used or intended for use in the course of business. That general entitlement is immediately qualified by sub-section (2),<sup>3</sup> which lays down a set of cumulative conditions: possession of a valid tax invoice, reflection of the invoice in the supplier's outward supplies statement under Section 37,<sup>4</sup> no restriction under Section 38,<sup>5</sup> actual receipt of goods or services, actual payment of tax to the Government under Section 41,<sup>6</sup> and filing of a return under Section 39.<sup>7</sup>

The structural tension is real. A diligent recipient can satisfy every one of those conditions except the one in clause (c). It can obtain invoices, pay its supplier through proper banking channels, receive the goods, check GSTR-2B for reflection, and file its own returns on time. What it cannot do is walk into the supplier's accounting office and ensure that the GST component collected from it is actually deposited into the Government's coffers. When suppliers fail to do so, whether through financial distress, negligence, or deliberate evasion, recipients across India have found themselves facing ITC reversal demands for tax they genuinely paid, in transactions that genuinely happened.

This paper traces the full arc of that problem: from the statutory text of Section 16(2)(c) and the pre-GST doctrinal foundations, through the divergent High Court rulings that have created an unstable legal landscape, to the constitutional arguments on both sides, and finally to a proposed framework for how the Supreme Court might and should resolve the conflict.

---

<sup>1</sup> The Central Goods and Services Tax Act, 2017, No. 12 of 2017, Acts of Parliament, 2017, § 16(2)(c) (India).

<sup>2</sup> The Central Goods and Services Tax Act, 2017, No. 12 of 2017, Acts of Parliament, 2017, § 16(1) (India).

<sup>3</sup> The Central Goods and Services Tax Act, 2017, No. 12 of 2017, Acts of Parliament, 2017, § 16(2) (India).

<sup>4</sup> The Central Goods and Services Tax Act, 2017, No. 12 of 2017, Acts of Parliament, 2017, § 37 (India) (supplier's statement of outward supplies).

<sup>5</sup> The Central Goods and Services Tax Act, 2017, No. 12 of 2017, Acts of Parliament, 2017, § 38 (India) (communication of inward supplies and ITC).

<sup>6</sup> The Central Goods and Services Tax Act, 2017, No. 12 of 2017, Acts of Parliament, 2017, § 41 (India), as substituted by The Finance Act, 2022, No. 6 of 2022, Acts of Parliament, 2022 (India) (w.e.f. 1 October 2022).

<sup>7</sup> The Central Goods and Services Tax Act, 2017, No. 12 of 2017, Acts of Parliament, 2017, § 39 (India) (furnishing of returns).

## **II. PROBLEM STATEMENT**

The GST framework rests on the expectation that registered taxpayers will self-assess and comply. Section 16(2)(c) inserts into that framework a condition that a recipient simply cannot self-fulfil. Rule 37A,<sup>8</sup> inserted in December 2022, provides a partial answer: the recipient must temporarily reverse ITC where the supplier has not filed GSTR-3B by 30 September of the following year, and may re-avail that credit once the supplier pays. This mechanism does not resolve the deeper question, namely whether Parliament may permanently deny ITC to a bona fide recipient for a default that is entirely the supplier's doing.

High Courts across India have answered that question differently, and the divergence has become acute. While the Gujarat, Kerala, Patna, Andhra Pradesh, Madhya Pradesh, and Madras High Courts have upheld Section 16(2)(c) as a strict and inviolable condition, the Tripura, Gauhati, and Karnataka High Courts have held that the provision must be read down to protect genuinely innocent recipients. The resulting uncertainty is not merely academic; it directly affects working capital, business viability, and the willingness of registered dealers to transact with smaller or less financially stable suppliers.

## **III. RESEARCH QUESTIONS**

This paper addresses the following questions. First, what is the legislative framework governing ITC eligibility under Section 16(2)(c) of the CGST Act, 2017, and how does it operate within the broader ITC chain? Second, how have Indian courts interpreted and applied Section 16(2)(c) in cases of supplier default, and what competing judicial philosophies have emerged? Third, what doctrinal foundations from pre-GST VAT and CENVAT jurisprudence inform the present controversy, and are they truly analogous to the GST context? Fourth, what constitutional challenges to Section 16(2)(c) have been raised under Articles 14, 19(1)(g), 265, and 300A, and how have courts engaged with them? Fifth, what practical steps can recipients take to protect their ITC entitlement, and what legislative or judicial reforms would produce a principled and workable resolution?

## **IV. RESEARCH OBJECTIVES**

This study aims to examine the statutory text and operating mechanism of Section 16(2)(c) within the broader ITC framework of the CGST Act, 2017; to trace the doctrinal origins of the 'actual payment' condition in pre-GST VAT and CENVAT jurisprudence and assess their

---

<sup>8</sup> The Central Goods and Services Tax Rules, 2017, r. 37A (India), inserted vide Notification No. 26/2022-CT dated 26 December 2022.

applicability to the distinct GST architecture; to analyse and contrast the pro-taxpayer and pro-revenue judicial trends that have emerged across High Courts under the GST regime; to evaluate the constitutional arguments raised under Articles 14, 19(1)(g), 265, and 300A of the Constitution of India; and to suggest practical guidance for affected taxpayers and propose a framework for authoritative Supreme Court resolution.

## **V. RESEARCH METHODOLOGY**

This research adopts a doctrinal methodology. It draws primarily on the text of the CGST Act, 2017 and the rules framed thereunder, on circulars and notifications of the Central Board of Indirect Taxes and Customs, and on the judgments of the Supreme Court and various High Courts. Academic commentaries and authoritative professional articles, including analyses published in specialised GST law journals, have been consulted to contextualise the practical dimensions of the legal framework. No empirical fieldwork or survey data has been used.

## **VI. LEGAL FRAMEWORK GOVERNING INPUT TAX CREDIT UNDER GST**

The right to ITC under the CGST Act is stated in Section 16(1) in broad terms: every registered person is entitled to take credit of input tax charged on any supply used or intended to be used in the course of business, the amount being credited to the electronic credit ledger. The qualifier comes immediately in sub-section (2), which converts that general entitlement into a checklist of conditions that must all be satisfied.

Clause (c) of Section 16(2) is the provision at the centre of this paper. It provides that, 'subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply'. On a plain reading, this makes supplier payment to the exchequer a condition precedent to a recipient's final ITC entitlement. A recipient whose supplier collects GST from it but then fails to deposit that amount with the Government is, on this reading, disqualified from retaining credit even if the recipient did everything right.

The legislative history of Section 41 is worth noting. As substituted by the Finance Act, 2022 with effect from 1 October 2022, it acknowledges self-assessed ITC but mandates reversal where the supplier has not paid the corresponding output tax. Rule 37A, inserted in December 2022, operationalises this by requiring a recipient to reverse ITC by 30 November of the following financial year if the supplier has reported sales in GSTR-1 but has not filed GSTR-3B by 30 September. Re-availment becomes possible once the supplier complies. These amendments signal that Parliament was aware of the problem and sought a practical mechanism,

but they do not address the more fundamental question of whether permanent ITC denial in cases of a genuine innocent purchase is constitutionally tenable.

The burden of proving ITC eligibility rests on the claimant under Section 155 of the CGST Act. This provision has become a focal point in the litigation: pro-revenue courts read it as requiring the recipient to prove, among other things, that the supplier actually paid tax, while pro-taxpayer courts read it as requiring proof of the genuineness of the transaction, not as imposing a guarantee of the supplier's fiscal conduct.

## **VII. PRE-GST JURISPRUDENCE: DOCTRINAL FOUNDATIONS**

The interpretive debate over Section 16(2)(c) did not arise in a vacuum. For decades before GST, courts had grappled with similar questions under State VAT regimes and the CENVAT Credit Rules. Understanding how those decisions travelled, and where they diverged, is essential to making sense of the current conflict.

### **A. Mahalaxmi Cotton Ginning Pressing and Oil Industries**

In 2012, the Bombay High Court<sup>9</sup> was asked to consider whether the Maharashtra VAT set-off mechanism, which denied credit to a purchasing dealer where the selling dealer had not deposited tax, was constitutionally valid. The court held that 'actually paid' meant exactly what it said: factual deposit into the treasury. Payment by the purchaser to the seller was a private transaction and could not be equated to payment to the Government. The provision was upheld.

### **B. Kay Kay Industries**

The following year, the Supreme Court<sup>10</sup> took a markedly different approach in the context of CENVAT credit. Where a recipient had received goods under proper duty-paid documents and there was no evidence that it had colluded in the supplier's default, the court held that the department's remedy lay against the defaulting supplier, not against the innocent recipient.

### **C. On Quest Merchandising India**

Perhaps the most influential pre-GST decision came from the Delhi High Court in 2017.<sup>11</sup> The court accepted the petitioners' argument that a purchasing dealer could check registration status, obtain valid tax invoices, and make payment, but could not be expected to monitor whether the selling dealer actually deposited tax with the Government. The provision was read down: it

---

<sup>9</sup> *Mahalaxmi Cotton Ginning Pressing and Oil Industries v. State of Maharashtra*, 2012-VIL-37-BOM (India) (decided 11 May 2012).

<sup>10</sup> *Commissioner of Central Excise, Jalandhar v. Kay Kay Industries*, 2013-VIL-07-SC-CE (India) (decided 26 August 2013).

<sup>11</sup> *On Quest Merchandising India Pvt. Ltd. v. Government of NCT of Delhi*, 2017-VIL-544-DEL (India) (decided 26 October 2017).

could not constitutionally apply to bona fide purchasers who had transacted with validly registered dealers under proper invoices and were not in any way connected to the default.

#### **D. Arise India and Shanti Kiran India**

When the Revenue appealed the Delhi High Court's decision, the Supreme Court dismissed the special leave petition in *Arise India*,<sup>12</sup> allowing the reading-down approach to attain finality for the purposes of the Delhi VAT regime. The significance of this was reinforced in *Commissioner, Trade and Tax, Delhi v. Shanti Kiran India (P) Ltd.*,<sup>13</sup> where the Supreme Court expressly upheld ITC for bona fide purchasers in cases where the supplier was registered at the time of the transaction and the genuineness of the invoices was undisputed.

#### **E. Ecom Gill Coffee Trading**

In 2023, the Supreme Court<sup>14</sup> added an important qualification to the pro-taxpayer narrative. The court held that the burden of proving entitlement to ITC rests firmly on the claimant, and that the mere production of invoices and cheque payment receipts does not discharge that burden. A dealer claiming credit must establish the genuine movement and receipt of goods through corroborative evidence, including supplier details, transport documents, delivery acknowledgements, freight particulars, and stock records.

### **VIII. JUDICIAL TRENDS UNDER THE GST REGIME**

The cases that have accumulated under the GST regime since 2017 fall into two broad and increasingly sharply opposed camps. The key decisions in each warrant examination.

#### **A. Pro-taxpayer judgments**

In *D.Y. Beathel Enterprises v. State Tax Officer*, the Madras High Court, in 2021,<sup>15</sup> was confronted with a situation in which purchasing dealers had paid GST to their suppliers, who had then failed to remit it to the Government. The department sought to reverse the buyers' ITC without first examining or proceeding against the defaulting sellers. The court held this to be contrary to natural justice.

---

<sup>12</sup> *Commissioner of Trade and Taxes, Delhi v. Arise India Limited*, 2018-VIL-01-SC (India) (special leave petition dismissed 10 January 2018).

<sup>13</sup> *Commissioner, Trade and Tax, Delhi v. Shanti Kiran India (P) Ltd.*, 2025-VIL-83-SC (India).

<sup>14</sup> *State of Karnataka v. Ecom Gill Coffee Trading Private Limited*, 2023-VIL-20-SC (India) (decided 13 March 2023).

<sup>15</sup> *D.Y. Beathel Enterprises v. State Tax Officer (Data Cell)*, 2021-VIL-308-MAD (India) (decided 24 February 2021).

In 2023, the Calcutta High Court, in *Suncraft Energy Private Limited v. Assistant Commissioner*,<sup>16</sup> held that ITC could not be reversed from a recipient merely because supplier invoices did not appear in GSTR-2A for the financial year 2017-18. During that period, GSTR-2A was a facilitative statement, not a determinative one, and the law contemplated self-assessed ITC through GSTR-3B. The court held that, unless collusion between the recipient and the supplier was shown, the department must first take action against the selling dealer before reversing credit from the buyer.

The Gauhati High Court, in *National Plasto Moulding v. State of Assam* (August 2024),<sup>17</sup> treated the issue as directly governed by the *On Quest* and *Arise India* precedents as endorsed by the Supreme Court. It read down Section 16(2)(c) so that it could not be applied to bona fide purchasers who had transacted with registered suppliers and were not alleged to be party to fraud or collusion.

In what is arguably the most carefully reasoned of the pro-taxpayer decisions, the Tripura High Court held in *Sahil Enterprises v. Union of India* (January 2026)<sup>18</sup> that Section 16(2)(c) is constitutionally valid but must be read down. In February 2026, the Karnataka High Court, in *Instakart Services Private Limited v. Union of India*,<sup>19</sup> followed the Gauhati and Tripura courts and read down both Section 16(2)(c) and Rule 36(4)<sup>20</sup> in favour of bona fide recipients.

## B. Pro-revenue judgments

The pro-revenue line is equally well-populated. The Andhra Pradesh High Court in *Thirumalakonda Plywoods*<sup>21</sup> (2023), the Patna High Court in *Aastha Enterprises*<sup>22</sup> (2023), the Kerala High Court in *Nahasshukoor*<sup>23</sup> (2023) and *M. Trade Links*<sup>24</sup> (2024), the Madhya Pradesh High Court in *Shree Krishna Chemicals*<sup>25</sup> (2025), and the Madras High Court in *Baby Marine Eastern Exports*<sup>26</sup> (2025) have all upheld Section 16(2)(c) in its strict statutory form.

---

<sup>16</sup> *Suncraft Energy Private Limited v. Assistant Commissioner, State Tax, Ballygunge Charge*, 2023-VIL-487-CAL (India) (decided 2 August 2023).

<sup>17</sup> *National Plasto Moulding v. State of Assam*, 2024-VIL-804-GAU (India) (decided August 2024).

<sup>18</sup> *Sahil Enterprises v. Union of India*, 2026-VIL-15-TRI (India) (decided 6 January 2026).

<sup>19</sup> *Instakart Services Private Limited v. Union of India*, 2026-VIL-312-KAR (India) (decided 9 February 2026).

<sup>20</sup> The Central Goods and Services Tax Rules, 2017, r. 36(4) (India), as amended (restricting provisional ITC claims to invoices reflected in GSTR-2B).

<sup>21</sup> *Thirumalakonda Plywoods v. Assistant Commissioner (ST)*, 2023-VIL-472-AP (India) (decided 18 July 2023).

<sup>22</sup> *Aastha Enterprises v. State of Bihar*, 2023-VIL-546-PAT (India) (decided 18 August 2023).

<sup>23</sup> *Nahasshukoor v. Assistant Commissioner*, 2023-VIL-1105-KER (India).

<sup>24</sup> *M. Trade Links v. Union of India*, 2024-VIL-559-KER (India) (decided 4 June 2024).

<sup>25</sup> *Shree Krishna Chemicals v. Union of India*, 2025-VIL-182-MP (India).

<sup>26</sup> *Baby Marine Eastern Exports v. Union of India*, 2025 SCC OnLine Mad 15588 (India).

### **C. The Gujarat High Court's ruling in Maruti Enterprise**

The most significant and recent contribution to the pro-revenue line is the Gujarat High Court's May 2026 judgment in *Maruti Enterprise v. Union of India*.<sup>27</sup> Hearing a large batch of writ petitions, the court declined to read down Section 16(2)(c) and expressly disagreed with the Tripura High Court's approach. It reasoned that the GST statutory architecture, with Sections 41 and 53 and Rule 37A providing a structured reversal-and-re-availment framework, was deliberately and self-consciously designed to link final ITC entitlement to actual supplier payment.

## **IX. CONSTITUTIONAL ANALYSIS**

### **A. Article 14 and hostile discrimination**

The most powerful constitutional challenge to Section 16(2)(c) is grounded in Article 14 of the Constitution. The argument runs as follows. The provision, if applied literally, treats two entirely different categories of recipients identically: the colluding recipient who knowingly participated in a fraudulent transaction, and the honest recipient who verified everything within its power and was genuinely defrauded by a supplier's later default. Article 14 is violated not only by treating equals unequally, but also by treating unequals as if they were the same.

### **B. Article 19(1)(g) and proportionality**

Recipients also argue that permanent ITC denial for supplier default violates Article 19(1)(g), which protects the right to carry on trade or business. The burden effectively imposed is disproportionate: businesses would need to monitor their suppliers' GSTR-3B filings, cash ledger balances, and ITC utilisation on an ongoing basis, information that is private to the supplier and not accessible to recipients in real time.

### **C. Article 265 and the double burden**

Under Article 265, no tax shall be levied or collected except by authority of law. Bona fide recipients who are required to reverse ITC and pay output tax in cash, having already paid GST to the supplier, argue that the same economic burden is being extracted from them twice.

### **D. Article 300A and the property character of credit**

Article 300A provides that no person shall be deprived of property save by authority of law. Once ITC is credited to the electronic credit ledger and used in business operations, recipients argue, it assumes the character of property that cannot be arbitrarily extinguished.

---

<sup>27</sup> *Maruti Enterprise v. Union of India*, 2026-VIL-432-GUJ (India) (decided 1 May 2026).

### **E. Lex non cogit ad impossibilia**

The maxim *lex non cogit ad impossibilia*, that the law cannot compel the impossible, is the moral core of the recipient's constitutional complaint. A recipient can verify GST registration, obtain valid tax invoices, receive goods or services, pay through banking channels, and review GSTR-2B. What it cannot do is access the supplier's GSTR-3B payment records, cash ledger, or internal ITC utilisation.

### **X. PRACTICAL IMPLICATIONS FOR TAXPAYERS**

Until the Supreme Court provides authoritative guidance, recipients facing ITC challenges under Section 16(2)(c) must be prepared to argue both the constitutional and the evidentiary dimensions of their case. The Supreme Court's insistence in *Ecom Gill Coffee* on comprehensive proof of genuine receipt means that bona fides cannot merely be asserted; they must be demonstrated.

Several practices are essential. Recipients should retain valid tax invoices containing all mandatory particulars, including supplier GSTIN, invoice number, date, place of supply, tax rate, taxable value, and GST amount. They should preserve end-to-end documentation of the movement and receipt of goods, such as e-way bills, lorry receipts, delivery challans, weighment slips, gate-entry records, stock registers, and consumption or resale records. They should maintain bank payment proofs confirming payment of the full invoice value, including the GST component, to the supplier within prescribed timelines. They should download and archive GSTR-2A and GSTR-2B statements, supplier GST registration status screenshots, and all correspondence with suppliers at the time of each transaction. They should build supplier compliance obligations into contracts, requiring timely filing of GSTR-1 and GSTR-3B and including indemnity clauses that make the supplier liable for ITC reversals attributable to its default. Finally, where ITC is reversed under Rule 37A, they should preserve and track the right to re-avail once the supplier pays, and should contest any attempt to treat a temporary reversal as a permanent disqualification.

### **XI. RECOMMENDATIONS**

The current state of the law, with multiple High Court rulings going in opposite directions and no binding Supreme Court guidance, is unsatisfactory for taxpayers, tax administrators, and the broader economy. Several reforms would, in this paper's view, produce a just and workable resolution.

**A. Statutory amendment introducing a bona fide purchaser exception**

The most durable solution is a legislative one. Parliament should amend Section 16(2)(c) to provide expressly that the condition of actual payment shall not operate against a recipient who has established genuine receipt of goods or services, made payment through banking channels, and is not alleged to have colluded in, or had knowledge of, the supplier's default.

**B. Mandatory prior action against the defaulting supplier**

The CGST Rules should be amended to require that, before a demand for ITC reversal under Section 16(2)(c) is confirmed, the department must demonstrate that it has issued notice to and pursued recovery from the defaulting supplier, and must communicate the outcome of those proceedings to the recipient.

**C. Automation of the re-availment mechanism**

The re-availment mechanism under Rule 37A should be made automatic and system-driven, so that recipients are not left to pursue restoration of credit manually once a supplier complies.

**D. Technological transparency for recipients**

The GST portal should be enhanced to give recipients real-time visibility into the payment status of suppliers' GSTR-3B filings in respect of invoices reflected in GSTR-2B.

**E. GST Council guidance**

Pending legislative or Supreme Court resolution, the GST Council should issue a clear circular setting out the evidentiary standards and procedural safeguards applicable in Section 16(2)(c) proceedings, specifically what a recipient must produce to establish bona fides, and what the department must do before confirming a reversal.

**XII. CONCLUSION**

Section 16(2)(c) sits at an uncomfortable intersection. On one side is the Government's entirely legitimate interest in ensuring that ITC flows only through supply chains where tax has actually reached the exchequer, and not through chains where fraudulent invoices, accommodation entries, or collusive arrangements allow credit to be claimed on supplies that never happened. On the other side is the practical reality of commercial life: honest businesses routinely transact with suppliers they cannot fully vet, and they should not be left holding the tax liability for a supplier's misconduct in which they had no part.

The pro-taxpayer courts, namely Tripura, Gauhati, and Karnataka, have understood this and applied a reading-down that is doctrinally sound and constitutionally principled. The Supreme

Court's own jurisprudence in *Kay Kay Industries* and *Shanti Kiran India* points in the same direction: the department's remedy for supplier default is, ordinarily, to pursue the supplier. The pro-revenue courts, most recently and forcefully Gujarat, are not wrong to insist that GST has its own distinct statutory architecture and that reading-down has limits. Their concern is real: a blanket bona fide exception, if too liberally applied, could become a shield for sophisticated fraudsters.

The resolution that the Supreme Court should eventually reach is neither a blanket upholding nor a blanket reading-down. It should uphold Section 16(2)(c) as constitutionally valid legislation, while requiring procedural safeguards before permanent denial is imposed on any recipient: inquiry against the defaulting supplier, disclosure of the results of that inquiry to the recipient, examination of the recipient's bona fides on the basis of documentary evidence, and protection from final disqualification where the transaction is genuine and the default is exclusively at the supplier's end. Such a framework would honour the provision's anti-fraud purpose while honouring equally the constitutional guarantee that honest taxpayers should not be made to bear the cost of others' wrongs.

\*\*\*\*\*