

ITC cannot be granted solely on Tax Invoice: Apex Court

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In order to counter the growing menace of fake invoicing the country's supreme court has issued an important clarification that mandates tax payers to submit a series of documentation to take ITC benefit.

Every taxpayer under the GST regime, is eligible to avail the credit of taxes (ITC) paid on the purchases made from the suppliers.

ITC is the heart & soul for the GST implementation in the Country.

In terms of the 16(2) of GST Act, 2017 for availing the Input Tax Credit, the taxpayer/claimant must prove that his supplier has paid the tax on such purchase to the Government Account and goods or services procured must have been received by the taxpayer/claimant.

There are numerous peti-



tions/cases pending before various High Courts on the very same issue. The GST Department denied the ITC to various taxpayers on the ground that the supplier has not paid the tax to the Government exchequer on such transaction or the taxpayer/claimant has not received goods or services from his suppliers & it is fake or mere paper transaction not the genuine one.

In the State of Andhra Pradesh also, many taxpayers are facing the same proceedings from the DGGST/Anti-Evasion

department of Central GST Department/State GST Enforcement wings. This issue is a burning issue in present days of GST implementation across the Country.

In this background, recent judgment of the Hon'ble Supreme Court in the case of The state of Karnataka vs M/s. Eom Gill Coffee Trading Private Limited 2023 (3) TMI 533 - SUPREME COURT is having a paramount importance. Hon'ble Supreme Court in the context of ITC under VAT Act, 2005 held that to

ready to minimize their tax liabilities by optimising their Input Tax Credits.

Docs Mandated by the Honble Court

- ✓ Name and address of the selling dealer,
- ✓ Details of the vehicle which has delivered the goods to the recipient,
- ✓ Payment of freight charges to the transporter,
- ✓ Acknowledgement of taking delivery of goods,
- ✓ Tax invoices issued by the Supplier and
- ✓ Payment particulars

Fake Invoicing creating huge menace for GoAP Govt to undertake stringent actions

claim the ITC, the buyer has to prove the genuineness of the transaction by submitting a series of documents (See box).

Therefore taxpayers who are facing these cases, can collate & collect the above documents now itself & be

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