




2026:AHC:190631-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT TAX No. - 498 of 2023**

M/s M.V. Traders

…..Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

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Counsel for Petitioner(s) : Aditya Pandey, Nikhil Agrawal
Counsel for Respondent(s) : C.S.C.

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**Along with :**

1. **Writ Tax No. 2313 of 2026:**
   Kamaal Enterprises
   Versus
   State of Uttar Pradesh and 2 others
2. **Writ Tax No. 2790 of 2026:**
   Mahak Traders
   Versus
   Union of India and 2 others
3. **Writ Tax No. 1788 of 2026:**
   Hindustan Mint and Agro Products Pvt Ltd
   Versus
   Union of India and 4 others
4. **Writ Tax No. 2251 of 2026:**
   M/s Euphoria Mines and Minerals
   Versus
   Union of India and 4 others
5. **Writ Tax No. 3198 of 2026:**
   Ma Developers and Engineers
   Versus
   Union of India and 3 others
6. **Writ Tax No. 526 of 2023:**

M/s Warsi Tyre Retrading Works

Versus

Union of India and 3 others

7. **Writ Tax No. 2074 of 2026:**
M/s Yamnotree Steels

Versus

Union of India and 2 others

8. **Writ Tax No. 2827 of 2026:**
Pushkar Trading Company

Versus

Union of India and 2 others

9. **Writ Tax No. 721 of 2025:**
M/s Fortune Services

Versus

Union of India and 4 others

10. **Writ Tax No. 2637 of 2026:**
M/s Balaji Constructions

Versus

Union of India and 2 others

11. **Writ Tax No. 2795 of 2026:**
Mahak Traders

Versus

Union of India and 2 others

12. **Writ Tax No. 1229 of 2024:**
M/s. Pps International

Versus

Union of India and 3 others

13. **Writ Tax No. 2366 of 2024:**
M/s Dyalu Tradiing Company

Versus

State of U.P. and 2 others

**Court No. - 39**

**HON'BLE SAUMITRA DAYAL SINGH, J.**
**HON'BLE SWARUPAMA CHATURVEDI, J.**

1. Heard Mr. Pranjal Shukla, Mr. Varun Singh, Mr. Shubham Agarwal, Mr. Hari Om Ojha, Mr. Rishi Kant Rai, Mr. Ajay Kumar Yadav, Mr. Ayush Kumar, Mr. Utkarsh Malviya, Mr. Divyanshu Pandey, Mr. Jitendra Pal Singh Chauhan, Mr. Ved Prakash Singh, Mr. Adarsh Singh, Mr. Pragyanshu Pandey, Mr. Ved Prakash Singh, learned counsel for the petitioners and Mr. Manoj Kumar Singh, Mr. Gopal Verma, Mr. B.K. Singh Raghuvanshi, Mr. Ashish Kumar, Mr.

Dhananjay Awasthi, Mr. Amit Mahajan, Mr. Sudarshan Singh, Mr. Abrar Ahmad, Mr. Dhananjay Awasthi and Mr. Gopi Krishna Sood, learned counsel for the respondents as also Mr. Nimai Dass, Mr. Arvind Mishra, Mr. Ankur Agarwal, learned Standing Counsel for the State respondents.

2. The present writ petition is listed along with batch of 156 writ petitions tagged along with the lead case being Writ Tax No. 1611 of 2022.

3. The prayer made in this writ petition is to declare provisions of Section 16(2)(c) of the U.P. G.S.T. 2017 (hereinafter to as the 'State Act') and parallel provision under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'Central Act') *ultra vires* the Constitution of India.

4. Similar prayer has been made in each of the petitions listed in this batch.

5. At the same time, besides the issue of validity of the provisions of Section 16(2)(c) of the State Act and the Central Act, other issues are involved in some of the petitions.

6. On the last date, the Revenue had placed on record copy of the order passed by the Supreme Court in ***Bhandari Scrap Traders versus Union of Indian and Others SCC Online SC 1570 dated 24.07.2026***.

7. For ready reference that order reads as below:-

> *"Though we are informed that a special leave petition has been entertained in relation to the decision of the* ***Tripura High Court in Sahil Enterprises vs. Union of India & Ors****., we find from the judgment passed by the High Court of Tripura that the exercise undertaken by the High Court of Gujarat in the judgment, presently under challenge, was not undertaken by it.*
>
> *The distinction and differences between the provisions of the Delhi Value Added Tax Act, 2004, and the Central Goods and Services Tax Act, 2017, brought out by way of a detailed analysis from paragraph 42 onwards in the impugned judgment along with the scheme of availing Input Tax Credit (ITC) under the GST regime, as set out in paragraph 56 of the impugned judgment, clearly demonstrate that there is no possibility of drawing parity between the provisions of the two enactments, so as to treat a purchasing dealer under the*

*CGST Act on par with a purported bonafide purchasing dealer under the Delhi VAT Act in relation to ITC, when the supplier-dealer fails to pay the requisite tax.*

*Further, the High Court of Gujarat has also referred to the provisions of Section 41 of the CGST Act and also Sections 73 and 74 thereof in the context of the purchasing dealer under the CGST regime being entitled to re-avail the reversed ITC after the supplier-dealer is made to discharge the tax liability.*

*In that view of the matter, the High Court was fully justified in holding that no grounds were made out to declare Section 16(2) (c) of the CGST Act as unconstitutional or read down the provisions thereof. We find ourselves in complete and respectful agreement with the views expressed by the High Court of Gujarat and affirm and uphold the impugned judgment.*

*The special leave petitions are, accordingly, dismissed.*

*Pending application(s), if any, shall stand disposed of."*

8. Accordingly, the Revenue contends that the challenge to the validity of Section 16(2)(c) of the Central Act and the State Act does not survive for adjudication by this Court, in view of the categorical pronouncement of the Supreme Court in ***Bhandari Scrap Traders (Supra)***.

9. That position is undisputed.

10. At the same time occasioned by other issues involved in some of the petitions we had requested learned counsel for the parties to inform the details of cases in which other issues besides the question of validity of Section 16(2)(c) of the Central Act or the State Act, is involved.

11. It is now disclosed (by learned counsel for the petitioners) that the present set of petitions forming part of the main batch, being petitions connected to Writ Tax No. 1611 of 2022, no other issue is involved.

12. Accordingly, in view of the validity of issue having being laid to rest in terms of the order of the Supreme Court upholding the validity of Section 16(2)(c) of the Central Act i.e. Section 16(2)(c) of the State Act, these petitions are dismissed in terms of the order passed by the Supreme Court in ***Bhandari Scrap Traders (Supra).***

13. To the extent writ petitions were pending on the issue of validity of the law and interim orders were also operating, occasioned by dismissal of the writ petitions by this order, we leave the individual petitioners at liberty to file individual appeals against the impugned orders, or to respond to the statutory notice as the case may be, within a period of three weeks from today. If such replies/appeals are filed within time thus granted, the same may be entertained and dealt with on its own merits without raising any objections as to limitations.

**September 11, 2026**

Shweta

**(Swarupama Chaturvedi,J.)** **(Saumitra Dayal Singh,J.)**