

**GIB/DL/Challenger Computer/21.08.2015/HC-139**

**High Court Category :** Others

**State :** Delhi

**Order No.:** GIB/DL/Challenger Computer/21.08.2015/HC-139

**Name of Entry :**  
Challenger Computer Ltd

**Date :** 21-08-2015

**Breif Issue :**

**Facts & Issue Of The Case :**

10(5) inserted in the DVAT Act with effect from 1st April 2010 As per Section 10 [(5) Where the goods which have been purchased by a dealer are sold at a price lower than the price at which it was purchased by the dealer, the tax credit on such purchases shall be reduced proportionately in the tax period during which the goods are sold. Revenue submitted that it was incumbent on the assessee to claim ITC only to a proportionate extent after accounting of discount received from selling dealer and, consequently, the assessee had to adjust input tax and reverse ITC claimed by it against discount received from selling dealer.

**Decision of Advance Ruling Authority :**

**Decision:**

High Court held that introduction of section 10(5) did not alter the scheme of ITC in any manner; the only effect of the said section would be that ITC available to a purchasing dealer would not exceed the amount of tax payable on its sales – Therefore, the assessee was not required to reverse ITC claimed on purchases made by it. Section 10 (5) brings about a change that is substantive and not procedural. It is a change that adversely affects the substantive rights of the buying dealer. There cannot, therefore, be a presumption of retrospectivity as far as the said provision is concerned.