

**GIB/KN/ONXY/17-06-2019/HC-93**

**High Court Category :** Input Tax Credit

**State :** Karnataka

**Order No.:** GIB/KN/ONXY/17-06-2019/HC-93

**Name of Entry :**

Onyx Designs vs. The assistant commissioner of Commercial taxes

**Date :** 17-06-2019

**Breif Issue :**

**Facts & Issue Of The Case :**

The petitioner is a registered dealer Under the provisions of Section 10(2) of Karnataka Value Added Tax Act,2003 ,dealing in a trading business of bags and gifts items. Many arguments are going there to claim the input tax credit as from where the petitioner made his purchase ,some of the dealers are de-registered and not filed VAT returns or paid taxes . The prescribed authority states that if they disallow the Input Tax Credit it might ruin the whole purpose and object of the KVAT Act. The assessee also contented that the cancellation can only have prospective effect not retrospective effect , and purchases so made prior to the date of de registration the ITC so claimed on them cannot be disallowed.

The reply which was filed by the assessee clearly shows that those dealers which are de registered were still filing returns during the assessment year , and the dealers who have not remitted the taxes collected from the assessee would lead to a substantial loss of the revenue of the state.

**Decision of Advance Ruling Authority :**

**Decision :**

As per the decision of the court , the benefit of the ITC cannot be deprived to the purchaser dealer if the purchaser dealer satisfactorily demonstrate that when at the time of purchase of goods he has paid the amount of the tax to the selling dealer.

In the view of the admission of the genuine transaction and in the absence of the any other allegations made against the purchasing dealer in the assessment orders , only on the ground that the selling dealers have not deposited the collected tax amount or some of the selling dealers have been subsequently de registered ,can't deny the ITC .