



*GST ki गणित*

# ITC Availment in case of of Retrospective Cancellation of Registration

Let's take a closer look at an important case law of LGW Industries v/s Industries v/s Union Of India and some other related Case Laws.  
Laws.



**Jain Shrimal & Co.**  
CHARTERED ACCOUNTANTS

# LGW Industries v/s Union of India

dt. Dec 13,2021, Calcutta HC

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## Background

LGW Industries (petitioner) was disallowed the benefit of ITC on a purchase of goods by the Department (respondent) through an order. The grounds of the said order were that the supplier from whom the goods were purchased was fake and bogus and thus, its registration was cancelled retrospectively. The petitioner filed a writ petition against the order.

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## Facts

The petitioner contended that the transactions were bonafide. They had verified the genuineness and identity of the supplier the supplier and their names, as registered taxable persons, were appearing on the Government Portal at the time of the transaction in question.

All the payments were made by them through bank and not in cash.

All transactions were through banks and that all the purchases in question invoices-wise were available on the GST portal in form GST portal in form GSTR-2A.

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## Conclusion

The High Court made the following observations in this regard;

The assessing officer has to consider:

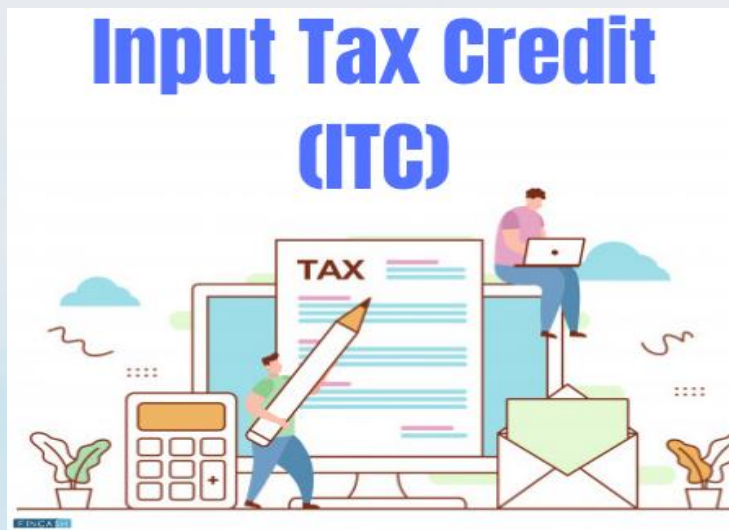
- ✓ The documents which the petitioners want to rely in support of their claim of genuineness of the transactions in question.
- ✓ As to whether payments on purchases in question along with GST were actually paid or not to the suppliers (RTP).
- ✓ As to whether the transactions and purchases were made before or after the cancellation of registration of the suppliers.
- ✓ As to compliance of statutory obligation by the petitioners in verification of identity of the suppliers (RTP).

It was found that all the above observations were satisfied by the petitioner and thus, the petitioners shall be given the benefit of the benefit of input tax credit in question.



# Sanchita Kundu v/s Assistant Commissioner of State Tax MD.

**NIZAMUDDIN, J.** dt. May 5, 2022, Calcutta HC



## Background

Sanchita Kundu availed ITC on purchases from a supplier whose registration was retrospectively cancelled.



## Facts

Department argued that ITC cannot be claimed on account of cancellation of vendor registration.



## Conclusion

Petitioner can claim ITC as all conditions under section 16 of CGST Act have been fulfilled. No ground to deny ITC.

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