

## ***Recovery Order of ITC due to mis-match in Form GSTR-3B and GSTR-2A stayed: The Hon'ble Chhattisgarh High Court***

### **Fact of the Case**

This writ petition has been filed by Bharat Aluminium Company ("BALCO"/"the Petitioner") against a notice dated July 1, 2020 and Recovery Order dated January 22, 2021 passed by the Revenue Department ("the Respondent") denying ITC to the Petitioner, on the basis of mis-matching of ITC availed in Form GSTR-3B with the details furnished by suppliers in Form GSTR-2A for the period 2018-19.

The Petitioner has contended that, there shall not be any automatic reversal of ITC of buyer on non-payment of tax by the seller and in case the seller has not paid the tax, a recovery has to be made from the seller. The Petitioner has come out with the purchases made, but did not tally/match with Form GSTR-2A ITC shown by the seller meaning there by the seller may not have filed return. When the physical verification was offered to be made by the Petitioner it was not accepted.

*Issue:*

*Whether the ITC was correctly denied to the Petitioner on the basis of mis-matching of ITC availed in Form GSTR-3B with the details furnished by suppliers in Form GSTR-2A?*

### **Decision of the Case**

The Hon'ble Chhattisgarh High Court decided as under:

- ❖ Observed that, a perusal of the notice and Recovery Order would show that the issue raised by the Petitioner needs consideration.
- ❖ Directed the Respondent not to take any coercive steps pursuant to the Recovery Order passed, on depositing 5% of demand within 15 days by the Petitioner.
- ❖ Further directed the Respondent to file a reply within 4 weeks.
- ❖ Listed the matter on August 2, 2021.

***The Hon'ble Chhattisgarh High Court has granted stay on Recovery Order passed by the Revenue Department, denying Input Tax Credit ("ITC") to the Company due to mis-match in two return forms i.e. Form GSTR-2A and Form GSTR-3B, on a condition of deposit of 5% of the demand by the Company.***