

M/s Aastha Enterprises v. State of Bihar and Another

Case number: Civil Writ Jurisdiction Case No. 10395 of 2023

Citation: 2023(8) eILR(PAT) HC 4999

Decision date: 18 August 2023

Purchaser ITC when the supplier has collected GST but not paid Government

Court: Patna High Court

Bench: Hon'ble Chief Justice K. Vinod Chandran and Hon'ble Mr. Justice Partha Sarthy

Decision stage: Final dismissal after substantive interpretation of Section 16(2)(c).

01 Facts of case and issues

Aastha relied on invoices, bank payment of price and tax, and evidence of movement of goods. The supplier had collected the tax but had not paid it to Government. The purchaser argued that denying ITC defeated GST's anti-cascading purpose and that Revenue should first recover the unpaid tax from the supplier.

The assessment was dated 24/25 May 2022. Although no statutory appeal had been filed within the Section 107 period, the High Court expressly examined the interpretation issue: whether purchase and payment evidence sufficed despite supplier default and whether prior supplier recovery was required.

Pinpoint: Official PDF physical pp. 3–6, paragraphs 1–4 (judgment pp. 1–4).

02 Discussion by Hon'ble Court

The Court treated Section 16's conditions as cumulative. Invoices, goods receipt, banking and transport evidence did not displace Section 16(2)(c)'s requirement that tax on the supply reach Government through cash or admissible credit.

It distinguished the Tamil Nadu VAT setting of Sri Vinayaga Agencies and declined to follow D.Y. Beathel Enterprises, whose treatment it considered had not addressed Section 16(2)(c). Ecom Gill concerned Karnataka VAT transaction-proof requirements; the Patna Court independently applied the BGST supplier-payment condition despite Aastha's claimed evidence. It treated ITC as a statutory benefit available on compliance with its conditions.

The double-taxation objection failed because payment to the supplier had not satisfied payment to Government. Available recovery machinery against the supplier did not itself establish the purchaser's ITC entitlement. The Court described recovery against the seller as the purchaser's remedy and mentioned only a possible refund claim if Government later recovered the tax.

Pinpoint: Official PDF physical pp. 7–15, paragraphs 5–15, especially 6, 8 and 10–14 (judgment pp. 5–13).

03 Judicial decision and operative relief

The Court rejected the ITC claim while the supplier's collected tax remained unpaid to Government and dismissed the writ petition. Each party was to bear its own costs. No remand, restored credit, quantified refund or direction to recover first from the supplier was granted. The possible later-refund observation was not a present award.

Pinpoint: Official PDF physical pp. 13–16, paragraphs 13 and 15–16; operative dismissal at physical p. 16 (judgment p. 14).

04 In favour of

Revenue. The purchasing dealer's substantive ITC challenge failed.

The taxpayer received no operative relief. Although the statutory appeal period had expired, this was also an express merits decision on the ITC condition, rather than an alternative-remedy dismissal alone.

Pinpoint: Official PDF physical pp. 4 and 15–16, paragraphs 2 and 15–16.

05 AKHB REVIEW POINT

AKHB analysis: Preserve transaction and supplier-payment records, respond to notices and protect appeal time limits. Under this decision, proof of purchase and payment to the seller alone did not overcome an established supplier-payment default. The case is not an express constitutional-validity ruling and does not decide every return mismatch or deemed-receipt dispute.

Later context matters. Bhandari Scrap Traders, decided by the Supreme Court on 24 July 2026, gives reasons rejecting a Section 16(2)(c) constitutional/read-down challenge and notes re-availment following supplier payment. It concerns different litigation and records no grant of leave; it is not an appeal from Aastha. Check period-specific reversal, re-availment and refund requirements before treating Aastha's possible-refund observation as an entitlement.

The Supreme Court stayed the contrary Tripura ruling in Sahil Enterprises by its order dated 1 September 2026. A later order dated 17 September directed listing on 14 October 2026. These are procedural orders, not final merits resolution. Verify the latest status before reliance.

Pinpoint: AKHB commentary: Aastha paragraphs 2, 8, 10 and 13–16; Bhandari official PDF pp. 2–3; Sahil order of 1 September 2026, paragraph 4, and order of 17 September 2026, p. 2.

Sources and limitations

Relevant provisions

Bihar GST Act: Sections 16(1), 16(2)(a)–(d), especially 16(2)(c), and 107. Sections 39, 41 and 49 appear in the extract.

Statutory note

The note preserves the Court's historical interpretation. Ecom Gill itself was a Karnataka VAT case. Current period-specific provisions and later binding treatment require separate checking.

Treatment note

Related later official orders are identified below. These bounded checks do not certify Aastha's own appellate history or establish a nationwide final resolution of every purchaser-ITC issue.

Scope of source review

All 16 physical PDF pages read and visually checked: 2 reporter/editorial pages followed by the complete 14-page judgment. Pinpoints use physical PDF pages and court paragraph numbers.

Source notes

The original caption consistently gives 10395/2023; some later citations transpose it. No disputed amount or tax period is added because the judgment does not state them. The reporter headnote is not treated as judicial reasoning.

Primary source

Source description: Official Patna High Court eILR PDF containing the complete judgment.

Official source: [Open source document](#)

Source pages: 16

Outcome type: final high court merits

Additional source

Bhandari Scrap Traders, Supreme Court, 24 July 2026

Official source: [Open source document](#)

Pinpoint: Official PDF pp. 2–3. Reasoned SLP dismissal in different litigation; no grant of leave recorded.

Sahil Enterprises, Supreme Court stay order, 1 September 2026

Official source: [Open source document](#)

Pinpoint: Paragraph 4, physical p. 2 of revised appearance-only record; duplicated at p. 4. Interim stay of the challenged High Court judgments/orders.

Sahil Enterprises, Supreme Court listing order, 17 September 2026

Official source: [Open source document](#)

Pinpoint: Official PDF p. 2. Lists on 14 October 2026; not a final merits disposition or guarantee of the future listing.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official High Court judgment and identified additional sources. No human legal review is claimed.

General disclaimer: For professional information only; not legal advice. Read the complete judgments and applicable law, verify later treatment and obtain case-specific professional advice before acting.

©AKHB & Associates. This copyright notice applies to the original AKHB research note, analysis and presentation. It does not assert ownership of the judicial orders, judgments, legislation, circulars or other third-party source material. Rights in those sources remain with their respective rights holders, as applicable.

Source checked: 12 October 2026