High Court & Supreme Court Judgments on Section 16(2)(c), CGST Act, 2017

ITC condition: “the tax charged in respect of such supply has been actually paid to the Government” — curated, verified case list (2017–Sep 2026)

Date	Court	Case	Issue re: Section 16(2)(c)	Holding
26-Oct-2017	Delhi HC	Arise India Ltd. v. Commissioner of Trade & Taxes, Delhi	Pre-GST VAT analogue: buyer's ITC denied for seller's non-deposit of collected tax	Struck down as applied to bona fide purchasers (Art. 14/19); department must proceed against the defaulting seller. SLP dismissed by SC, Jan 2018 — still cited by analogy under GST.
24-Feb-2021	Madras HC (Madurai Bench)	D.Y. Beathel Enterprises v. State Tax Officer	ITC reversed on the buyer with no inquiry against the defaulting seller	Quashed and remanded; recovery must first be attempted against the defaulting seller, with proper examination of sellers as witnesses.
13-Dec-2021	Calcutta HC	LGW Industries Ltd. & Ors. v. Union of India & Ors.	ITC denied after suppliers' GST registrations were retrospectively cancelled as fictitious	Quashed and remanded — retrospective cancellation alone is insufficient; authority must verify the suppliers' status at the time of the transaction.
02-Aug-2023	Calcutta HC	Suncraft Energy Pvt. Ltd. & Anr. v. Assistant Commissioner, State Tax	ITC reversed solely for non-reflection of supplier's invoices in GSTR-2A	No automatic ITC reversal without first investigating/proceeding against the supplier, except in exceptional cases (missing dealer, closure, etc.). SLP dismissed by SC, 16 Dec 2023.
03-Aug-2023	Andhra Pradesh HC	Arhaan Ferrous and Non-Ferrous Solutions Pvt. Ltd. v. Deputy Assistant Commissioner	Extent of the buyer's duty to verify the supplier's genuineness	Buyer's obligation limited to confirming supplier's registration on the GST Portal and bona fide purchase for consideration — not liable for the supplier's later conduct.
18-Aug-2023	Patna HC	Aastha Enterprises v. State of Bihar	Whether invoice + proof of payment to the seller alone satisfies s.16(2)(c)	No — the conditions must be independently satisfied; buyer bears the burden of showing the tax actually reached the government. Remedy lies in a civil claim against the defaulting seller (buyer-unfavourable).
04-Jun-2024	Kerala HC	M. Trade Links & Others v. Union of India & Others	Constitutional challenge to s.16(2)(c) and s.16(4) under Arts. 14, 19(1)(g), 300-A	Upheld constitutional validity of both provisions — ITC is a statutory concession, not an absolute or vested right.
05-Aug-2024	Gauhati HC	National Plasto Moulding v. State of Assam and 3 Ors.	Constitutional challenge where bona fide buyer's ITC denied for seller's non-payment	Violates Article 14 if it fails to distinguish honest from dishonest purchasers; show-cause notices set aside where buyer took due precautions.
06-Nov-2024	Kerala HC	Muhammed Abdul Saini v. State Tax Officer	Appeal renewing the constitutional challenge to s.16(2)(c)	Writ appeal dismissed — provision upheld as protecting revenue and GST-system integrity, following M. Trade Links.
30-May-2025	Allahabad HC	R.T. Infotech v. Additional Commissioner Grade-2 and 2 Others	ITC denied for GSTR-2A/2B vs GSTR-3B mismatch despite traceable bank payment	Purchaser cannot be denied ITC solely for the supplier's default where the buyer exercised due diligence; department must proceed against the supplier instead.

Date	Court	Case	Issue re: Section 16(2)(c)	Holding
20-Sep-2025	Bombay HC	Christie's India Pvt. Ltd. v. Union of India & Ors.	Interim relief pending constitutional challenge to s.16(2)(c)	Conditional interim protection on deposit of ₹20 lakh; court expressly noted the conflicting High Court positions on validity.
09-Oct-2025	Supreme Court	Commissioner, Trade and Tax, Delhi v. M/s Shanti Kiran India (P) Ltd.	VAT analogue: bona fide purchaser's ITC where seller's registration was cancelled/tax undeposited after the sale	Revenue's appeal dismissed — seller was validly registered on the date of transaction; buyer not penalised for the seller's later default.
10-Dec-2025	Gauhati HC	M/s McLeod Russel India Ltd. v. Union of India & Ors.	Section 16(2)(aa) [not 16(2)(c)] — ITC conditioned on supplier uploading invoices in GSTR-1	Read down — ITC cannot be denied merely for the supplier's GSTR-1 default; buyer must get a chance to prove bona fides via invoices/other documents.
06-Jan-2026	Tripura HC	Sahil Enterprises v. Union of India	Constitutional challenge to s.16(2)(c)	Upheld but read down to apply only to non-bona fide/collusive/fraudulent transactions; ₹1.11 crore ITC demand set aside for want of fraud evidence.
09-Feb-2026	Karnataka HC	M/s Instakart Services Pvt. Ltd. v. Union of India & Others	Constitutional challenge to s.16(2)(c)	Upheld but read down the same way — department must pursue the defaulting seller rather than deny bona fide buyers.
02-Apr-2026	Bombay HC	Karan Agencies (Pradeep Rameshkumar Nandwani) v. State of Maharashtra	Whether the HC should intervene against ITC blocking at the show-cause-notice stage	Declined to interfere as premature; directed exhaustion of statutory remedies, but kept the constitutional challenge to s.16(2)(c) open.
01-May-2026	Gujarat HC	Maruti Enterprise v. Union of India (lead matter, batch)	Full constitutional challenge under Arts. 14, 19(1)(g), 265	Upheld validity without reading down — ITC is a statutory concession, not a vested right; not double taxation since credit is re-claimable once the supplier eventually pays.
24-Jul-2026	Supreme Court	Bhandari Scrap Traders v. Union of India & Ors.	Appeal from Gujarat HC (Maruti Enterprise) — full-dress constitutional challenge to s.16(2)(c)	SLP dismissed — Section 16(2)(c) is constitutionally valid and needs no reading down; distinguished the pre-GST Arise India VAT line; ss.41/73/74 already let the buyer re-avail credit once the supplier pays.

Split of Judicial Opinion

This provision is the subject of a genuine, unresolved conflict between High Courts, which matters a great deal depending on which side of it your facts fall on.

- **No reading down — provision valid as written:** Kerala (M. Trade Links; Muhammed Abdul Saini), Patna (Aastha Enterprises), Gujarat (Maruti Enterprise), and now the Supreme Court (24-Jul-2026, Bhandari Scrap Traders). The buyer's only recourse is re-claiming credit later once the seller pays, under ss.41/73/74.
- **Read down to fraud/collusion only:** Tripura (Sahil Enterprises), Karnataka (Instakart Services), and effectively Gauhati (National Plasto Moulding; McLeod Russel on the adjacent s.16(2)(aa)). Provision upheld in the abstract but applied only against non-genuine/collusive transactions, protecting bona fide buyers.
- **Seller-first-recourse (procedural):** Madras (D.Y. Beathel), Calcutta (Suncraft Energy; LGW Industries), and Allahabad (R.T. Infotech). These require the department to proceed against the defaulting/cancelled-registration seller before touching the buyer's credit, without formally invoking a “read down” doctrine.

The Supreme Court's July 2026 ruling in Bhandari Scrap Traders is the most recent apex-court pronouncement and post-dates most of the pro-buyer High Court rulings above, but reported coverage does not show it expressly overruling them. The Gauhati/Tripura/Karnataka line should therefore be treated as being of doubtful continuing authority pending further clarification, rather than settled law.

Notes

- **McLeod Russel India Ltd. (Gauhati HC, 10-Dec-2025)** is decided on Section 16(2)(aa) — the adjacent condition requiring the supplier to upload invoices in GSTR-1 — not Section 16(2)(c) itself. It is included because it applies the same “bona fide buyer vs. supplier default” logic and is frequently cited alongside 16(2)(c) cases.
- **Verification:** Each entry was confirmed by opening the underlying judgment, an official-source copy, or a detailed law-report writeup quoting the order — not from a search snippet alone.
- **Scope:** This is a curated list of the most significant/landmark rulings, not an exhaustive database of every High Court order touching Section 16(2)(c). Please verify each citation against the official court record before relying on it for filing or advice.