



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 1351 of 2026

Oppo Mobile India Private Limited

.....Petitioner(s)

Versus

Union Of India And 3 Others

.....Respondent(s)

Counsel for Petitioner(s) : Nishant Mishra, Vedika Nath
Counsel for Respondent(s) : A.S.G.I., Dhananjay Awasthi

Court No. - 3

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE INDRAJEET SHUKLA, J.

1. Heard Sri Tarun Gulati, learned Senior Advocate assisted by Sri Nishant Mishra and Sri Kunwar Samarth, learned counsel for the petitioner and Sri Dhananjay Awasthi, learned counsel for the revenue and Sri Ashish Kumar, learned counsel for the Union of India.

2. The validity of Section 15(3)(b) of the CGST Act has been put to challenge. Relying on **Deputy Commissioner of Sales Tax (Law) Board of Revenue (Taxes) Ernaculam Vs. Advani Oerlikon (P.) Ltd.; 1980 taxmann.com 291 (SC) (Para 5-7)** as also other precedent including **Southern Motors Vs. State of Karnataka; (2017) 3 SCC 467**, it has been stressed that the trade discount arising from the original agreement but computed later may never give rise to any disability with the supplier vis-a-vis a transaction value or the amount receivable against supplies made in terms of the said pre-existing agreement/contract. The issue has been thrashed out by the Supreme Court unequivocally in favour of the assessee under the pre-existing CGST and VAT regimes. The legislative provision taking a different view may not survive the rigor of law arising from the pre-existing law laid down by the Supreme Court.

3. Second, it has been pointed out that the offending provision is proposed to be deleted by the legislature. On the recommendation of the GST Council deletion has been proposed in the Finance Bill, 2026.

4. On merits, objection has been raised to the invocation of Section 74 of the Act.

5. Third, it has been pointed out that 10% of the disputed tax may have already been deposited by the assessee.
6. To the extent validity of the law has been put in question and *prima facie* case is made out to invite deeper scrutiny.
7. Issue notice to the Attorney General of India.
8. List on the date fixed, showing the names of all counsel appearing for the parties.
9. In view of the observations made above, we do find that the case is made out for grant of interim protection. Subject to 10% of the disputed tax being deposited (including any amount already deposited or recovered), no further recoveries be made from the petitioner during pendency of this writ petition.

(Indrajeet Shukla,J.) (Saumitra Dayal Singh,J.)

February 26, 2026

Abhilash