GOODS AND SERVICES TAX APPELLATE TRIBUNAL
BENGALURU BENCH,

DIVISION BENCH – COURT NO. 3

APL/34/BUR/2026

M/s Peekay Industries ……..Appellant

Versus

Commissioner of Commercial Taxes, Karnataka ……..Respondent

Counsel for Appellant

Sri Prashant Dokania, Chartered Accountant

Counsel for Respondent
Dr Ramya, Dy commissioner, Departmental Representative

Hon'ble Shri Prabhakaran P.M., Judicial Member

Hon'ble Shri Ravi Jesuraj S., Technical Member (State)

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the Goods and Services Tax Appellate Tribunal

Whether Remand Order: Yes

Order reference No.: **Date of Order: 03 -09-2026**

1.	GSTIN/Temporary ID/UIN	29AABFP6218Q1ZN
2.	Appeal Case Reference No.	GST. AP .No.877/24-25
	Appeal Date	15-11-2025

3.	Name of the Appellant	M/s Peekay Industries 35, Doddanakundi Industrial Area, Mahadevapura Post, Bengaluru Urban, Karnataka, 560048 Through Sri Prashant Dokania, CA M/s Dokania & Co. Chartered Accountants, No. 2016, 3rd Floor, 16th Main, 100Ft Road, HAL 2nd Stage, Bengaluru 560008, Ph: +91 988609776 Email – dokania.co@gmail.com
4.	Name of the Respondent	1.Commissioner of Commercial Taxes 2. Commercial Tax Officer (LGSTO)-036, DGSTO-5, Bengaluru 3.Joint Commissioner of Commercial Taxes (Appeals-5), Bengaluru Through Departmental Representative, Commercial Taxes Department, Government of Karnataka
5.	Order Appealed Against	Form GST DRC-07
	Order Type	Demand Order
	Reference No	ZD2908240990810
	Order Date	28-08-2024
6.	Personal Hearing	05-08-2026, 24-08-2026, 31-08-2026

<table>
<tr><td>7.</td><td colspan="2">Order in Brief</td><td colspan="2">The matter is remanded to the learned Adjudicating Authority for fresh adjudication after verification of the reconciliation, invoices and books of account.</td></tr>
<tr><td colspan="5">Summary of Order</td></tr>
<tr><td>8.</td><td colspan="2">If Demand order then whether Demand Quantified</td><td colspan="2">NO</td></tr>
<tr><td rowspan="3">9.</td><td colspan="4">For Other Orders and Demand Orders which are Not Quantified</td></tr>
<tr><td>Issues as Raised by Proper Officer</td><td colspan="2">Issues as determined by Appellate/Revisional Authority</td><td>Order by GST Appellate Tribunal</td></tr>
<tr><td>Excess ITC claim</td><td colspan="2">NA</td><td></td></tr>
<tr><td rowspan="3">10.</td><td colspan="4">If remanded with Directions</td></tr>
<tr><td colspan="2">Remanded to</td><td colspan="2">Adjudicating Authority</td></tr>
<tr><td colspan="2">Directions subject to which remanded, if any</td><td colspan="2">Please refer final order below.</td></tr>
</table>

Place : Bengaluru Bench

Date : 03-09-2026

FINAL ORDER

(Per: Sh. Ravi Jesuraj S., Technical Member, for the Bench)

A. Introduction

1. This appeal is filed under Section 112 of the Central Goods and Services Tax Act, 2017 ("the CGST Act"). It is also governed by the corresponding provisions of the Karnataka Goods and Services Tax Act, 2017 ("the KGST Act"). The Appellant

is M/s. Peekay Industries, a partnership firm registered under GSTIN 29AABFP6218Q1ZN. The firm manufactures and supplies spring washers and other engineering products. Its registered place of business is at 35, Doddanakundi Industrial Area, Mahadevapura Post, Bengaluru Urban, Karnataka — 560048.

2. This appeal challenges the Order-in-Appeal bearing GST.AP. No.877/24-25 dated 15.11.2025. That order was passed by the Joint Commissioner of Commercial Taxes (Appeals-5), Koramangala, Bengaluru ("the First Appellate Authority"), under Section 107 of the CGST/KGST Act. The First Appellate Authority dismissed the Appellant's first appeal. It affirmed the order dated 30.07.2024 (Form GST DRC-07, uploaded 28.08.2024), passed under Section 73(9) of the CGST/KGST Act by the Commercial Tax Officer (LGSTO)-036, DGSTO-5, Bengaluru ("the Adjudicating Authority").

3. This dispute relates to the tax periods from April 2019 to March 2020. The Revenue alleges that the Appellant availed excess Input Tax Credit ("ITC"). The alleged excess arises from a difference between the credit shown in FORM GSTR-2A and the credit availed by the Appellant in FORM GSTR-3B.

4. According to the Revenue, the Appellant wrongly availed ITC of Rs. 51,174/- (CGST Rs. 25,587/- and SGST Rs. 25,587/-). This amount is sought to be recovered under Section 73, along with interest under Section 50 and penalty.

5. The Appellant disputes this. It contends that the authorities below misread the reconciliation filed during the proceedings. According to the Appellant, there was no excess availment under the CGST and SGST heads. The discrepancy first noticed, it says, related only to the IGST component. The Appellant further contends that both

authorities proceeded on a wrong factual premise, without properly examining the reconciliation, the invoices, or the books of account.

6. The appeal therefore raises several questions. These include: the interpretation of Section 16(2)(c) of the CGST Act; the evidentiary value of FORM GSTR-2A; the scope of proceedings under Section 73; the applicability of CBIC Circular Nos. 183/15/2022-GST dated 27.12.2022 and 193/05/2023-GST dated 17.07.2023; and the extent to which ITC may be denied for a return mismatch without proper factual verification.

7. At the outset, we record that the CGST Act and the KGST Act are substantially the same in their provisions, except where the State legislation makes specific departures. Accordingly, in this Order, a reference to the CGST Act or the CGST Rules should also be read mutatis mutandis to the corresponding provisions of the KGST Act and the KGST Rules, unless the context requires otherwise.

B. Facts of the Case

8. Scrutiny of the Appellant's returns for Financial Year 2019-20 was taken up and this scrutiny found a difference between the ITC availed in FORM GSTR-3B and the ITC auto-populated in FORM GSTR-2A. An intimation in FORM GST ASMT-10 dated 25.03.2024 was issued under Section 61 read with Rule 99(1) of the CGST/KGST Rules, 2017. It alleged that the Appellant had availed excess ITC of Rs. 82,701/- under "All other ITC" in Table 4(A)(5) of FORM GSTR-3B, as compared to the ITC available in FORM GSTR-2A. We record, as a matter of fact borne out by the ASMT-10 itself, that this entire alleged excess of Rs. 82,701/- was quantified

under the IGST head alone; the corresponding CGST and SGST columns in the ASMT-10 working in fact disclosed a shortfall (i.e., under-claim) of Rs. 1,745/- each, not an excess. The Appellant filed a reply on 30.03.2024 through the common portal, along with reconciliation in support of its explanation.

8.1 Not satisfied with this reply, the Adjudicating Authority issued intimation in FORM GST DRC-01A dated 15.05.2024, proposing determination of tax under Section 73. This was followed by a show-cause notice in FORM GST DRC-01 dated 29.05.2024, issued under Section 73(1) read with Rules 100(2) and 142(1)(a) of the CGST/KGST Rules, 2017 vide assignment No.2535/2019-20 dated 15.05.2024. We record here, as this is central to the controversy before us, that both FORM GST DRC-01A (proposing tax of Rs. 82,701/- with interest of Rs. 61,571/-, aggregating Rs. 1,44,273/-) and FORM GST DRC-01 (proposing tax of Rs. 82,701/- with interest of Rs. 62,026/- and penalty of Rs. 10,000/-, aggregating Rs. 1,54,727/-) continued to quantify the entire proposed liability under the IGST head alone, exactly as in the ASMT-10. At no stage prior to the adjudication order was the Appellant put to notice of any proposed liability under the CGST or SGST heads.

8.2 The Appellant filed objections to the show-cause notice. It reiterated that valid tax invoices were available, that the goods had actually been received, and that payment had been made to the suppliers. It also reiterated that there was no excess claim under the CGST and SGST heads, and that any difference related only to the IGST head and stood duly reconciled.

8.3 Despite these objections, the Adjudicating Authority passed the order in FORM GST DRC-07 dated 30.07.2024 (uploaded on the common portal on

28.08.2024). This order was passed under Section 73(9) read with Rules 100(1), 100(2), 100(3) and 142(5) of the CGST/KGST Rules, 2017. It confirmed a demand of Rs. 51,174/- (CGST: Rs. 25,587/- and SGST: Rs. 25,587/-). It also confirmed interest of Rs. 40,708/- (CGST: Rs. 20,354/- and SGST: Rs. 20,354/-) under Section 50, and penalty of Rs. 20,000/- (CGST: Rs. 10,000/- and SGST: Rs. 10,000/-, being the higher of 10% of the tax demanded or Rs. 10,000/- under each head) under Section 73(9) of the CGST/SGST Act, 2017. The aggregate liability confirmed was Rs. 1,11,882/-.

8.4 Aggrieved by this order, the Appellant filed a statutory appeal under Section 107 before the First Appellate Authority. The Appellant specifically urged that the reconciliation showed that, under the CGST and SGST heads, it had in fact claimed less ITC than reflected in GSTR-2A. It also urged that the Adjudicating Authority had wrongly assumed a subsequent adjustment of Financial Year 2018-19 credit in Financial Year 2019-20, without any material on record to support that conclusion.

8.5 By Order-in-Appeal dated 15.11.2025 (communicated on the common portal on 24.11.2025 vide reference No. ZD2911251933951), the First Appellate Authority dismissed the appeal. It held that the Appellant had failed to comply with the requirements of CBIC Circular No. 183/15/2022-GST dated 27.12.2022, as extended by Circular No. 193/05/2023-GST dated 17.07.2023, by not producing the prescribed certificates from the suppliers.

8.6 Dissatisfied with this outcome, the Appellant has filed the present appeal under Section 112 of the CGST Act, 2017, in FORM GST APL-05, verified on 16.02.2026.

C. The Adjudicating Authority's Own Computation, as it Appears from the Record

9. The correctness of the demand ultimately confirmed lies at the heart of this appeal. We therefore set out below, in tabular form, the successive computations appearing in the record, exactly as they appear in FORM GST DRC-07 and its annexures.

9.1 The primary, tax-period-wise reconciliation for the entire Financial Year 2019-20, comparing ITC claimed in GSTR-3B with ITC auto-drafted in GSTR-2A, discloses the following totals:

Particulars	IGST (Rs.)	CGST (Rs.)	SGST (Rs.)
Total ITC claimed in GSTR-3B (Apr-19 to Mar-20)	5,25,341	1,52,656	1,52,656
Total ITC auto-drafted in GSTR-2A (Apr-19 to Mar-20)	4,42,640	1,54,402	1,54,402
Shortfall (-) / Excess (+) [GSTR-3B minus GSTR-2A]	(+) 82,701	(-) 1,745	(-) 1,745

9.2 On the strength of this very primary reconciliation, the liability proposed at every stage prior to adjudication — in FORM GST DRC-01A dated 15.05.2024 (tax Rs. 82,701/-, interest Rs. 61,571/-, aggregating Rs. 1,44,273/-) and in the show-cause notice in FORM GST DRC-01 dated 29.05.2024 (tax Rs. 82,701/-, interest recomputed as Rs. 62,026/-, plus proposed penalty of Rs. 10,000/-, aggregating Rs. 1,54,727/-) — was confined entirely to the IGST head.

9.3 FORM GST DRC-07 records the following working under the heading "Excess of 2018-19 claimed in 2019-20", describing it as the Appellant's reply. We reproduce it exactly as it appears in the order, without independently verifying its arithmetic, for reasons explained in our analysis at Issue No. 3 below. We record here a factual discrepancy material to this appeal: on a plain reading of the Appellant's actual letter dated 30.03.2024 (filed on record in response to the ASMT-10), that letter is expressly captioned as, and confined to, a "Reconciliation of ITC … under IGST head" for both Financial Year 2018-19 and Financial Year 2019-20; it contains no reconciliation whatsoever of the CGST or SGST heads.

9.4 The CGST and SGST columns appearing in the working reproduced below, and attributed in FORM GST DRC-07 to the Appellant's reply, therefore do not correspond to any figure actually furnished by the Appellant in that letter:

Particulars ("Excess of 2018-19 claimed in 2019-20" working)	IGST (Rs.)	CGST (Rs.)	SGST (Rs.)
GSTR-2A (base figure used in this working)	4,56,083.70	1,56,137.90	1,56,137.90
GSTR-3B (2019-20)	5,25,341.00	1,52,656.00	1,52,656.00
"Excess ITC of 2018-19 claimed in 2019-20"	(-) 1,30,070.53	29,068.60	29,068.60
"Net Excess Claim"	(-) 60,813.23	25,586.75	25,586.75

9.5 The Adjudicating Authority then adopted the CGST and SGST components of this working, treating the negative IGST figure as nil, as the "Tax Component

Payable". On this basis, it confirmed the following final demand, which is the subject matter of the present appeal:

Particulars (as finally confirmed, DRC-07)	IGST (Rs.)	CGST (Rs.)	SGST (Rs.)
Tax	0	25,587	25,587
Interest u/s 50 (1,591 days)	0	20,354	20,354
Penalty (higher of 10% or Rs.10,000/-)	0	10,000	10,000
Total	0	55,941	55,941

(Grand total confirmed: Rs. 1,11,882/-)

D. Findings Recorded by the Adjudicating Authority

10. The Adjudicating Authority proceeded on the premise that the comparison between FORM GSTR-3B and FORM GSTR-2A disclosed excess availment of ITC of Rs. 25,587/- each under the CGST and SGST heads, totalling Rs. 51,174/-.

10.1 The Adjudicating Authority held that the conditions under Section 16(2)(c) of the CGST Act had not been fulfilled. It found that the corresponding tax had allegedly not reached the Government treasury. On this basis, it held that the Appellant had wrongly availed ITC, attracting recovery under Section 73(9), along with interest under Section 50 and penalty.

10.2 A notable feature of the order is that it assumes a subsequent adjustment of ITC pertaining to Financial Year 2018-19 in the returns of Financial Year 2019-20. The Appellant has consistently disputed this premise. As noted at Part C above, the order itself does not explain this assumption anywhere.

10.3 The order does not analyse or discuss the reconciliation furnished by the Appellant in response to the ASMT-10 notice. Nor does it give reasons for departing from the primary reconciliation in favour of the "Net Excess Claim" working.

10.4 We record two further, and more fundamental, infirmities. First, the tax proposed at every prior stage — ASMT-10, DRC-01A and the show-cause notice in DRC-01 — was, without exception, confined to the IGST head; the CGST and SGST demand of Rs. 25,587/- each, which the order ultimately confirms, was never put to the Appellant by way of any notice before the adjudication order itself was passed. Second, the order attributes the "Excess of 2018-19 claimed in 2019-20" working — the very working from which the confirmed CGST/SGST demand is drawn — to the Appellant's own reply. On a plain reading of the Appellant's letter dated 30.03.2024, however, that letter reconciles only the IGST head; it contains no CGST or SGST reconciliation at all. The order does not explain the source of the CGST/SGST figures it treats as the Appellant's reply, nor does it explain how a demand outside the scope of the show-cause notice came to be confirmed.

E. Findings Recorded by the First Appellate Authority

11. The First Appellate Authority began its analysis with Section 16(2)(c) of the CGST Act. It observed that one essential condition for availing ITC is that the tax charged on the supply must actually have been paid to the Government. It further observed that where an invoice does not appear in FORM GSTR-2A, a reasonable inference may be drawn that the supplier has not discharged the corresponding tax liability.

11.1 The Appellate Authority referred to Rule 86A of the CGST Rules and to the self-assessment character of the GST regime. It also examined CBIC Circular No. 183/15/2022-GST dated 27.12.2022 and Circular No. 193/05/2023-GST dated 17.07.2023, both issued to address disputes arising from differences between FORM GSTR-2A and FORM GSTR-3B.

11.2 The Appellant had admittedly not furnished the certificates contemplated by these Circulars. The Appellate Authority therefore held that the Appellant was not entitled to their benefit. It relied on Mahalaxmi Cotton Ginning Pressing and Oil Industries v. State of Maharashtra (Bombay High Court, Writ Petition No. 33 of 2012, decided 11.05.2012) and ALD Automotive Pvt. Ltd. v. Commercial Tax Officer, (2019) 13 SCC 255, for the proposition that ITC is a statutory concession to be strictly construed. It accordingly upheld the adjudication order in its entirety.

11.3 The impugned Order-in-Appeal does not deal with the Appellant's reconciliation set out above, which shows no excess under the CGST/SGST heads. Nor does it deal with the internal inconsistency between that reconciliation and the "Net Excess Claim" working at Para 9.3 which was, in fact, the basis of the confirmed demand.

F. Submissions on Behalf of the Appellant

12. Learned Authorised Representative, Sri Prashant Dokania, Chartered Accountant appearing for the Appellant, reiterated the grounds urged in the memorandum of appeal and assailed the impugned orders both on facts and in law. It was submitted that:

12.1 The entire proceedings suffer from a fundamental factual error. The reconciliation furnished before the Proper Officer itself shows that there was no excess availment under the CGST and SGST heads. If anything, the Appellant had claimed less credit than reflected in GSTR-2A under both heads.

12.2 The discrepancy first noticed in the ASMT-10 proceedings related to the IGST head. But while passing the adjudication order, the Proper Officer shifted the demand to the CGST and SGST heads, without giving reasons and without verification. This violates the settled principle that an assessee cannot be fastened with liability on a factual basis different from what was stated in the notice.

12.3 The assumption that ITC pertaining to Financial Year 2018-19 had been adjusted in Financial Year 2019-20 is not supported by any documentary evidence. It is based on conjecture. Neither the books of account, nor the electronic credit ledger, nor the purchase registers were examined before this conclusion was drawn.

12.4 FORM GSTR-2A is only a facilitative, auto-generated statement. It cannot by itself be conclusive evidence of wrongful availment. The reconciliation, invoices, books of account, and proof of receipt of goods ought to have been examined before any adverse conclusion was recorded.

12.5 The authorities have mechanically invoked Section 16(2)(c), without recording any finding that the suppliers had, in fact, failed to discharge their tax liability. The CBIC Circulars relied upon merely prescribe a verification procedure. They cannot override the substantive provisions of the Act, and cannot be used to deny ITC without an examination of facts.

12.6 The Adjudicating Authority failed to consider the detailed replies filed in response to ASMT-10 and DRC-01. This is a violation of Section 75(4) of the CGST Act.

12.7 It was prayed that the impugned orders be set aside and the appeal be allowed.

G. Contentions of the Revenue

13. Per contra, the learned Departmental Representative supported both the adjudication order and the impugned appellate order, and submitted that:

13.1 Section 16(2)(c) expressly makes payment of tax by the supplier a condition for availing ITC. The mismatch between FORM GSTR-3B and FORM GSTR-2A is sufficient prima facie material to initiate proceedings under Section 73.

13.2 The Appellant had admittedly not produced the certificates contemplated under CBIC Circular No. 183/15/2022-GST and Circular No. 193/05/2023-GST as applicable. It was therefore not entitled to invoke their benefit.

13.3 The judgments relied upon by the First Appellate Authority correctly lay down the law. ITC is a statutory concession to be availed strictly in accordance with the conditions prescribed by law. No interference is called for.

13.4 In support of the above submissions, reliance was placed on the decisions noted below.

13.5 Mahalaxmi Cotton Ginning Pressing and Oil Industries v. State of Maharashtra (Bombay High Court, Writ Petition No. 33 of 2012, decided 11.05.2012), for the proposition that the Legislature may lawfully condition ITC/setoff on tax having reached the treasury; and ALD Automotive Pvt. Ltd. v. Commercial Tax Officer, (2019) 13 SCC 255, for the proposition that ITC is a statutory concession to be strictly construed.

13.6 During the oral submissions, the Departmental Representative (DR) acknowledged that there were inconsistencies in the computation made in the order under appeal, partly due to the relevant documents not having been produced before the authorities. The DR therefore requested that the matter be remanded to the Adjudicating Authority for proper verification. The Authorised Representative of the Appellant had no objection to this request.

13.7 In view of the above submissions, we examine the facts, the principle, and the applicability of each of these decisions, issue by issue, at Part I below.

H. Issues for Determination

14. We have heard the learned Authorised Representative for the Appellant and the learned Departmental Representative for the Respondents. We have examined the record, the pleadings, the statutory provisions, and the judicial precedents cited before us. The following issues arise for our determination:

(i). Whether the proceedings initiated, and the demand confirmed, under Section 73 of the CGST/KGST Act are sustainable in law and on facts?

(ii). Whether a mere difference between the ITC reflected in FORM GSTR-2A and the ITC availed in FORM GSTR-3B, without independent verification of the underlying transactions, constitutes sufficient legal basis for denial of ITC?

(iii). Whether the Adjudicating Authority and the First Appellate Authority correctly appreciated the reconciliation statement and other documentary evidence produced by the Appellant, including the internal inconsistency between the primary reconciliation and the "Net Excess Claim" working actually used to confirm the demand?

(iv). Whether Section 16(2)(c) of the CGST Act has been correctly interpreted and applied by the authorities below, having regard also to Section 16(2)(aa) and Rule 36(4) as they stood (or did not stand) during Financial Year 2019-20?

(v). Whether CBIC Circular No. 183/15/2022-GST and Circular No. 193/05/2023-GST have been correctly understood and applied, having regard to the limited period (April to October 2019) to which the latter Circular, by its own terms, applies?

(vi). Whether the demand of tax under Section 73, together with consequential interest under Section 50 and penalty under Section 73(9), is legally sustainable on the record as it stands?

(vii). Whether the impugned orders suffer from a violation of the principles of natural justice, including the requirement of a reasoned, speaking order under Section 75 of the CGST Act?

(viii). To what relief, if any, is the Appellant entitled?

I. Tribunal's Analysis and Findings

16. Issue-wise Analysis and Findings. We now proceed to record our analysis and findings issue by issue. Under each issue, we first set out the submissions urged on

behalf of the Appellant, then the contentions of the Revenue, together with the judicial authorities relied upon; then our own analysis, drawing upon the record, the statutory scheme, and the case law discussed; and finally, our finding on that issue, with the provisions and authorities on which it rests.

Issue No. (i) — Whether the proceedings initiated, and the demand confirmed, under Section 73 of the CGST/KGST Act are sustainable in law and on facts?

Submissions of the Appellant:

16.1.1 According to the Appellant, the proceedings arose from a difference between the ITC reported in FORM GSTR-3B and the ITC appearing in FORM GSTR-2A, and that the reconciliation furnished during the proceedings showed no excess availment of CGST or SGST. According to the Appellant, the only excess disclosed by the primary reconciliation was under the IGST head. It is further submitted that the liability initially proposed in FORM DRC-01A was confined to the IGST head, but the final demand was raised under the CGST and SGST heads, without any explanation for the change. The Appellant also disputes the assumption that ITC relating to Financial Year 2018-19 was claimed in Financial Year 2019-20, and submits that the books of account, the electronic credit ledger, and the purchase records were never examined before that conclusion was drawn.

Contentions of the Revenue:

16.1.2 The Revenue submits that the difference between FORM GSTR-2A and FORM GSTR-3B was, by itself, sufficient material to initiate proceedings under Section 73. It is further submitted that payment of tax by the supplier is a condition for availment of ITC under Section 16(2)(c), and that the Appellant had in any event not furnished the certificates contemplated under CBIC Circular No. 183/15/2022-GST and Circular No. 193/05/2023-GST.

Tribunal’s Analysis:

16.1.3 We have examined the reconciliation and the successive computations appearing in the order of the Adjudicating Authority, set out in tabular form at Part C above. The primary reconciliation for Financial Year 2019-20 (Para 9.1) shows an excess of Rs. 82,701/- under IGST, and a difference of Rs. 1,745/- each under CGST and SGST — in the Appellant’s favour, not against it. It was this IGST figure alone that formed the basis of the amount initially proposed in FORM DRC-01A. The final demand, however, was not confirmed under IGST at all. It was confirmed under CGST and SGST, at Rs. 25,587/- each, drawn from an entirely different working described in the order as “Excess of 2018-19 claimed in 2019-20” (Para 9.3). The Adjudicating Authority has nowhere explained why the primary reconciliation was abandoned, how the figures in the second working were derived, or on what basis it assumed that ITC of Financial Year 2018-19 had been claimed in Financial Year 2019-20. The initiation of proceedings on noticing a discrepancy cannot be faulted; a mismatch of this kind is legitimate ground for scrutiny under Section 61 and for verification under Section 73. But the existence of a discrepancy is only the beginning of the enquiry, not its end. The liability actually confirmed has to rest on a proper examination of the records and of the explanation furnished by the registered person — an exercise that, on this record, has not been properly carried out.

Finding:

16.1.4 The initiation of proceedings under Section 73 cannot be faulted merely because a discrepancy was noticed on scrutiny. That much we accept. But the final demand actually confirmed under the impugned order cannot be sustained on the computation presently available on record. [Section 61 and Section 73(1)/(9), CGST Act, 2017]

Issue No. (ii) — Whether the difference between FORM GSTR-2A and FORM GSTR-3B, without further verification, is sufficient to deny ITC?

Submissions of the Appellant:

16.2.1 The Appellant submits that FORM GSTR-2A is only an auto-generated, facilitative statement, and that a difference between GSTR-2A and GSTR-3B cannot, by itself, establish that ITC was wrongly availed.

Contentions of the Revenue:

16.2.2 The Revenue relies upon Section 16(2)(c) and submits that payment of tax by the supplier is one of the conditions for availment of ITC, and that the absence of the corresponding credit in GSTR-2A raises a reasonable inference that the supplier has not paid the tax. Reliance is placed on ALD Automotive Pvt. Ltd.

v. Commercial Tax Officer, (2019) 13 SCC 255, for the proposition that ITC is a statutory concession that must be claimed strictly in accordance with the conditions prescribed by law.

Tribunal's Analysis:

16.2.3 There is no dispute with the proposition that ITC is subject to the conditions prescribed under the Act. The Hon'ble Supreme Court in ALD Automotive dealt with the statutory conditions governing availment of ITC, in the context of a limitation dispute under the Tamil Nadu VAT Act, and held that a concession under a taxing statute must be availed strictly in accordance with the conditions attached to it. That proposition is sound, and we do not depart from it. But that decision does not decide the question before us, which is not one of limitation but of proof: whether a difference in GSTR-2A, by itself, establishes that the supplier has not paid the tax. The authorities below have proceeded substantially on that assumption, without any finding based on an enquiry into the concerned suppliers or their tax payments, and without properly examining the Appellant's reconciliation. We take note also of State of Karnataka v. Ecom Gill Coffee Trading Private Limited (2023) 9 SCC 573 where the Hon'ble Supreme Court emphasised that determination of ITC eligibility may require examination of the underlying transactions and supporting material, and cannot always be decided merely on production of invoices. That case arose under the Karnataka VAT Act, on facts where the genuineness of the transactions themselves was in question — a different controversy from the one before us. We do not apply it as if it decided the precise GSTR-2A/GSTR-3B question; we refer to it only for the limited proposition that determination of ITC can require examination of the underlying records.

Finding:

16.2.4 A difference between GSTR-2A and GSTR-3B may justify verification. It cannot, without more, be treated as conclusive proof that ITC has been wrongly availed — not on the facts before us.

Issue No. (iii) — Whether the reconciliation and the documentary material produced by the Appellant were properly considered by the authorities below?

Submissions of the Appellant:

16.3.1 The Appellant's case is that the reconciliation furnished during the proceedings clearly showed no excess CGST or SGST credit, and that the authorities instead relied upon the separate "Net Excess Claim" working, without explaining how the figures in that working were derived or how they could be reconciled with the primary reconciliation.

Contentions of the Revenue:

16.3.2 The Revenue supports the computation adopted by the Adjudicating Authority, and submits that the Appellant did not, in any event, satisfy the requirements of CBIC Circular No. 183/15/2022-GST and Circular No. 193/05/2023-GST.

Tribunal's Analysis:

16.3.3 This issue lies at the heart of the entire dispute. The primary reconciliation shows an IGST excess of Rs. 82,701/-, and a difference of Rs. 1,745/- each under CGST and SGST. The proposal in FORM DRC-01A and the show-cause notice in FORM DRC-01 were, consistently, under IGST alone — no liability under CGST or SGST was ever proposed to the Appellant. The final demand, however, was Rs. 25,587/- each under CGST and SGST, drawn entirely from the separate "Net Excess Claim" working, which the order attributes to the Appellant's reply. On our own examination of the record, that attribution is itself factually incorrect: the Appellant's letter dated 30.03.2024 reconciles only the IGST head and contains no CGST or SGST figures whatsoever.

16.3.4 The order does not explain the difference between these two computations, does not explain why the GSTR-2A figures used in the second working differ from those used in the first for the very same financial year, and does not explain the true source of the CGST/SGST figures it treats as the Appellant's own reply. We also note that Section 75(7) of the CGST Act expressly provides that the amount confirmed in an order shall not exceed the amount specified in the notice, and that no demand shall be confirmed on grounds other than the grounds specified in the notice; a demand raised for the first time, under heads never proposed in the show-cause notice, sits uneasily with this requirement.

16.3.5 The First Appellate Authority did not deal with this at all. The impugned Order-in-Appeal does not consider the primary reconciliation, nor the inconsistency between it and the working that actually produced the confirmed demand. This is not a minor omission — the second computation is the very basis of the tax demand of Rs. 51,174/-. As the Hon'ble Supreme Court held in Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan, (2010) 9 SCC 496, the reason for a quasi-judicial decision must be apparent from the order itself. Here, the two computations have not been reconciled, and the reason for adopting one over the other has not been given. We also note the Appellant's own submission that the discrepancy first noticed related only to the IGST head, and that the shift to CGST and SGST at adjudication was made without reasons or verification.

Finding:

16.3.6 Neither the reconciliation furnished by the Appellant, nor the internal inconsistency between the two computations on record, has been properly considered by the authorities below. More than that: the CGST/SGST working which FORM GST DRC-07 attributes to the Appellant's reply does not, on the record before us, correspond to that reply at all — the reply was confined to the IGST head. The demand cannot be sustained without first resolving this basic factual inconsistency, and without giving the Appellant a proper opportunity to meet a CGST/SGST demand that was never put to it in any notice.

Issue No. (iv) — Whether Section 16(2)(c) has been correctly applied to the period involved in the present appeal?

Submissions of the Appellant:

16.4.1 The Appellant contends that the authorities have treated the mere absence of corresponding figures in GSTR-2A as proof that the suppliers had not paid tax, without any actual enquiry. It is also submitted that Section 16(2)(aa) was not applicable to Financial Year 2019-20, that clause having been inserted only with effect from 01.01.2022.

Contentions of the Revenue:

16.4.2 The Revenue relies upon Section 16(2)(c) and submits that payment of tax by the supplier is an essential, expressly stated condition for availment of ITC, and that the mismatch itself is sufficient to raise that inference.

Tribunal's Analysis:

16.4.3 Section 16(2)(c) requires that the tax charged on the supply should actually have been paid to the Government. That statutory condition is not in dispute; the difficulty lies in establishing its breach. The authorities below have moved directly from the GSTR-2A difference to the conclusion that the supplier had not paid the tax, without any corresponding enquiry recorded in either order. The First Appellate Authority's reliance on ALD Automotive Pvt. Ltd. does not answer this factual question; as already noted above, that decision concerned the statutory conditions for availment of ITC in a limitation dispute, not the evidentiary value of a GSTR-2A mismatch.

16.4.4 We also note that Section 16(2)(aa) — which gives statutory recognition to GSTR-2A/2B matching — was inserted only with effect from 01.01.2022, and has no application to the tax periods in dispute, April 2019 to March 2020. During that period, GSTR-2A was only a facilitative, auto-populated statement, without independent statutory force as a condition of credit. Rule 36(4) of the CGST Rules, restricting credit on unmatched invoices to a prescribed percentage, was itself inserted only from 09.10.2019, and did not apply at all to April–September 2019; thereafter it applied only in its then-current graded form. Neither authority below appears to have considered this timeline.

Finding:

16.4.5 On proper verification, the authorities below have not established that the condition in Section 16(2)(c) was breached by the Appellant. Section 16(2)(aa) has no application to Financial Year 2019-20.

Issue No. (v) — Whether CBIC Circular No. 183/15/2022-GST and Circular No. 193/05/2023-GST were correctly applied?

Tribunal's Analysis:

16.5.1 Circular No. 183/15/2022-GST relates, by its own terms, to Financial Years 2017-18 and 2018-19. Circular No. 193/05/2023-GST extends the same verification mechanism only to the period April 2019 to 8th October 2019 — because Rule 36(4) came into force only from 09.10.2019. The present dispute spans April 2019 to March 2020, a materially wider period. The period 9th

October 2019 to March 2020 cannot be brought within Circular No. 183/15/2022-GST as extended by Circular No. 193/05/2023-GST merely because the appeal, as framed, concerns the financial year as a whole. Neither authority below has separately examined these two periods. The fact that the Appellant did not furnish the certificates contemplated by these Circulars may well be relevant to the verification process the Circulars prescribe. It does not, however, dispense with the need to determine the actual ITC liability by reference to the substantive statutory provisions applicable to the relevant period — a distinction the impugned orders do not draw.

Finding:

16.5.2 The Circulars No. 183/15/2022-GST dated 27.12.2022 and No. 193/05/2023-GST dated 17.07.2023 have not been applied with due regard to their respective periods of operation. The period April 2019 to 8th October 2019, and the period 9th October 2019 to March 2020, each require separate examination.

Issue No. (vi) — Whether the interest and penalty confirmed against the Appellant can be sustained?

Tribunal's Analysis:

16.6.1 Interest under Section 50 and penalty under Section 73(9) both arise from, and depend upon, the underlying tax demand. In the present case, that tax liability has not itself been properly determined; the computation on which it was confirmed requires fresh verification, for the reasons recorded under the issues discussed above. It follows that the consequential interest and penalty cannot be sustained independently of that determination. This does not mean that interest or penalty can never arise on these facts — only that their applicability, and quantum, must depend upon the result of the fresh determination.

Finding:

16.6.2 The interest and penalty confirmed under the impugned orders cannot independently survive. Both shall abide by the fresh determination of the tax liability. [Section 50 and Section 73(9), CGST Act, 2017]

Issue No. (vii) — Whether the impugned orders are reasoned, speaking orders as required under Section 75(6) of the CGST Act?

Submissions of the Appellant:

16.7.1 The Appellant points out that its reconciliation and its replies to the ASMT-10 and the show-cause notice were not considered, and that neither authority below explained why the demand was shifted from IGST to CGST and SGST. This, it is submitted, also amounts to a violation of Section 75(4) of the CGST Act.

Contentions of the Revenue:

16.7.2 The Revenue submits that adequate opportunity was given at every stage, and that the orders were passed after considering the material placed on record.

Tribunal's Analysis:

16.7.3 We have already noticed, under Issues No. (i) and (iii) above, that the primary reconciliation and the "Net Excess Claim" working lead to different results, and that neither the Adjudicating Authority nor the First Appellate Authority has explained the difference. Section 75(6) casts a mandatory obligation on the Proper Officer to set out the relevant facts and the basis of the decision in every order passed under Section 73. The requirement of giving reasons has been explained by the Hon'ble Supreme Court in Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan. Reasons are necessary so that the affected party, and the appellate forum, can understand how the conclusion was reached. In the present case, the absence of reasons is not confined to some subsidiary matter — it concerns the very computation of the tax demanded.

Finding:

16.7.4 The impugned orders do not contain adequate reasons for the computation and confirmation of the demand. They do not meet the requirement of a reasoned, speaking order under Section 75(6) of the CGST Act.

Issue No. (viii) — What relief should be granted to the Appellant?

Tribunal's Analysis:

16.8.1 The findings recorded above leave us with a single question: should this Tribunal itself determine the correct amount of ITC, or should the matter be remanded? We have considered this carefully. This Tribunal is the final fact-finding authority under the Act, and we do not remand on the footing that we lack the power to examine facts. We remand because the necessary factual exercise has not been properly undertaken by the authorities below, and cannot fairly be undertaken for the first time in this appeal. There are two irreconcilable computations on this record. The first shows an excess only under IGST, and no excess under CGST or SGST. The second produces the very CGST and SGST liability that was ultimately confirmed. The order does not explain how one replaced the other. We must also record that the Appellant's own conduct has not helped resolve this difficulty: the "Excess of 2018-19 claimed in 2019-20" working, which produced the figure the Adjudicating Authority went on to adopt, is recorded in the order as the Appellant's own reply, yet before the First Appellate Authority and before us, the Appellant has relied only on the primary reconciliation. Neither side has squarely confronted this contradiction. This is a factual issue that cannot be resolved merely by accepting the submission of either side. Determining the correct position requires examination of the returns, the electronic credit ledger, reconciliation statements, invoices, purchase register, and books of account for the relevant period. This is consistent with State of Karnataka v. Ecom Gill Coffee Trading Private Limited, which recognises that determination of ITC can require examination of the underlying records, and with D.Y. Beathel Enterprises v. State Tax Officer (Data Cell), 2021 (3) TMI 1020 where the Madras High Court, faced with disputed supplier compliance, set aside the order and directed a fresh enquiry rather than deciding the matter finally. A fresh adjudication prejudices neither side. The Appellant retains a full opportunity to place its reconciliation, invoices, and books of account before the Adjudicating Authority and to be heard; the Revenue retains the opportunity to verify the claim, and to conduct such enquiry into the supplier(s) as the law requires. We are accordingly satisfied that this is a fit case for remand, rather than final determination in this appeal. The specific terms of the remand are set out in the Operative Order below.

Finding:

16.8.2 For these reasons, the impugned orders are set aside, and the matter is remanded to the Adjudicating Authority for fresh, reasoned adjudication in accordance with law, on the terms set out in the Operative Order below.

J. Operative Order

For the reasons discussed above, the appeal is disposed of by way of remand to the Adjudicating Authority on the following terms:

(i) The order dated 30.07.2024 (FORM GST DRC-07) passed by the Commercial Tax Officer (LGSTO)-036, DGSTO-5, Bengaluru; and

(ii) The Order-in-Appeal No. GST.AP. 877/24-25 dated 15.11.2025 passed by the Joint Commissioner of Commercial Taxes (Appeals-5), Koramangala, Bengaluru, are set aside.

(iii) The matter is remanded to the Adjudicating Authority for fresh adjudication, strictly confined to the show cause notice in FORM GST DRC-01 dated 29.05.2024. This is not a de novo remand at large. It is not an opportunity to reopen or expand the case. Specifically, the Adjudicating Authority shall not travel beyond the heads

(IGST, CGST or SGST) and grounds set out in that notice or confirm, or propose to confirm, any tax, interest or penalty exceeding the amount specified in that notice, under any head or on any ground whatsoever.

(iv) The fresh order may confirm the demand in the show cause notice — in whole or in part — or drop it, in whole or in part, based strictly on the material and findings relevant to that notice. It cannot enhance the demand.

Within the above scope, the Adjudicating Authority shall specifically do the following:

(v) Reconcile the two conflicting workings: Reconcile the primary tax-period-wise working (Para 9.1 of this Order) with the "Excess of 2018-19 claimed in 2019-20" / "Net Excess Claim" working (Para 9.3). In doing so, the Adjudicating Authority shall:

(a) Disclose the source and derivation of the GSTR-2A base figures used in the Para 9.3 working; and

(b) Specifically verify and disclose whether the CGST/SGST figures used in that working were, in fact, furnished by the Appellant — given that the Appellant's letter dated 30.03.2024 on record reconciles only the IGST head.

(vi) Carry out invoice-wise, and where necessary supplier-wise, verification of the disputed Input Tax Credit.

(vii) Examine the tax invoices, purchase register, books of account, and electronic credit ledger relied upon by the Appellant.

(viii) Determine — applying Section 16(2)(a) to (d) and Rule 36(4) as they stood during the relevant tax periods, and not Section 16(2)(aa), which does not apply to Financial Year 2019-20 — whether any condition then in force was actually breached.

(ix) Apply CBIC Circular No. 183/15/2022-GST as extended by Circular No. 193/05/2023-GST only to the period April 2019 to 8th October 2019, and separately examine the period 9th October 2019 to March 2020 on its own footing.

(x) Before drawing any adverse inference from a GSTR-2A shortfall, record whether the compliance status of the concerned supplier(s) has been enquired into, and record findings on bona fides.

(xi) Examine whether any part of the mismatch is the result of an inter-head misallocation between IGST and CGST/SGST.

(xii) The Appellant shall be given a reasonable and effective opportunity to produce reconciliation statements, tax invoices, purchase register, books of account, and any other supporting material — including the certificates contemplated under Circular No. 183/15/2022-GST and Circular No. 193/05/2023-GST, to the extent applicable

—The Appellant shall also be granted a personal hearing before any fresh order is passed.

(xiii) The Adjudicating Authority shall pass a fresh, reasoned order that Satisfies the requirements of Section 75(6) of the CGST Act, 2017, within twelve weeks from the date this Order is communicated.

(xvi) Any consequential demand of interest under Section 50, or penalty under Section 73(9), of the CGST Act, 2017, shall follow — and abide by — the fresh determination of tax liability made under this Order. Such interest or penalty shall not stand independently on the basis of the orders now set aside.

(xvii) This Tribunal has not expressed any opinion on whether the disputed Input Tax Credit is ultimately admissible. All questions of fact and law are left open for the Adjudicating Authority to decide, within the scope of the show cause notice as directed above — uninfluenced by any observation in the orders now set aside, or, except as expressly recorded above, by any observation in this Order.

(xviii) No order as to costs.

The appeal is disposed of accordingly.

Order pronounced in the open court on this 3rd day of September, 2026.

(Prabhakaran P.M) **(Ravi Jesuraj S.)**

Judicial Member Technical Member (State)