**GSTAT**

**Division Bench Court No. Court I**

**APL/10/LCK/2026**

M/S TEJ FARM SERVICES .....**Appellant**

**Versus**

SHRI PRAKASH YADAV , JOINT COMMISIONER, STATE TAX HEADQUARTER LUCKNOW & ORS. .....**Respondent**

**Counsel for Appellant**
SHRI SATYA PRAKASH, ADVOCATE

**Counsel for Respondent**
MR. MAHENDRA PRATAP SINGH, ASSISTANT COMMISSIONER, SGST

**Hon'ble Santosh Kumar Srivastava, Member(Judicial)**
**Hon'ble Arvind Kumar, Member (Technical)**

**ORDER**

**1.0 Brief Facts of the Case**

**1.1** The present appeal has been filed by the appellant, M/s Tej Farm Services (P) Ltd., is engaged in the wholesale and retail business of pesticides. The dispute pertains to the period 01.07.2017 to 31.03.2018. A notice under Section 73 of the CGST/SGST Act was issued to the appellant in respect of alleged incorrect availment of Input Tax Credit (ITC) arising from a mismatch between the ITC reflected in GSTR-2A and that claimed in GSTR-3B.

**1.2** The appellant submitted that the disputed ITC was not wrongly availed in substance, but was claimed under the CGST and SGST heads instead of the IGST head due to an inadvertent technical/clerical error. The appellant contended that the corresponding IGST ITC was duly reflected in GSTR-2A and that there was no revenue loss to the Government.

**1.3** The adjudicating authority confirmed the demand, along with applicable interest and penalty. The appellant preferred an appeal under Section 107, which was partly allowed; however, the issue relating to the ITC claimed under the wrong tax head remained disallowed.

**1.4** Accordingly, the appellant has preferred the present second appeal, disputing the tax demand of Rs 3,72,122/-, along with interest of Rs 5,23,888/- and penalty of Rs 37,212/-, contending that the discrepancy was merely technical/clerical in nature and did not result in any loss of revenue.

## 2.0 QUESTION OF LAW

**2.1** Since the matter is related to illegality of the incorrect ITC. Therefore, the matter is being heard in Division Bench.

## 3.0 GROUNDS OF APPEAL

**3.1** The appellant submitted that the impugned Order-in-Appeal dated 28.10.2023 is erroneous, contrary to the facts and law, and is therefore liable to be set aside, as the learned appellate authority has failed to properly appreciate the facts and submissions made by the appellant.

**3.2** The appellant submitted that the learned adjudicating authority as well as the first appellate authority erred in disallowing the Input Tax Credit (ITC) merely on account of its reflection under a different tax head in FORM GSTR-3B, despite the appellant having actually availed the eligible ITC and the corresponding credit being duly reflected in the relevant records.

**3.3** The appellant submitted that the difference in the availment of ITC under IGST, CGST and SGST heads was occasioned due to inadvertent clerical/technical error, and not on account of any wrongful availment or utilisation of ITC. The substantive eligibility of the credit has not been disputed.

**3.4** The appellant submitted that the ITC claimed by the appellant in CGST and SGST in lieu of IGST was duly reflected in the corresponding returns/records, including FORM GSTR-2A, and the mistake was purely procedural and technical in nature. There being no allegation or finding of any fraudulent availment, suppression of facts or intention to evade tax, the substantive benefit of ITC ought not to have been denied on such technical grounds.

**3.5** The appellant submitted that there is no loss of revenue to the Government exchequer, since the total amount of ITC reflected under the respective tax heads was duly accounted for and the dispute relates only to the manner/head under which the credit was reported. Therefore, the disallowance of otherwise eligible ITC is unjustified and unsustainable in the eye of law.

**3.6** The appellant submitted that the invocation of Section 73 of the CGST Act, 2017, is not justified in the facts and circumstances of the present case, as there was no wrongful availment or utilisation of ITC in substance and the discrepancy arose solely due to an inadvertent technical/clerical error in reporting the credit under the appropriate tax head.

**3.7** The appellant submitted that the levy of interest and penalty is also unsustainable, particularly when the alleged discrepancy is attributable to a bona fide technical/clerical error and there is no material on record to establish any deliberate or fraudulent availment/utilisation of ITC or any intention to evade payment of tax.

**3.8** The appellant submitted that the learned authorities below have failed to appreciate the distinction between a substantive contravention and a procedural/technical error, and have consequently denied the benefit of otherwise eligible ITC without establishing any actual revenue loss or wrongful availment of credit.

**3.9** The appellant submitted that the impugned order is otherwise contrary to the facts and circumstances of the case and the settled principles of law, and is therefore liable to be quashed.

**4.0 SUBMISSION OF THE APPELLANT**

**4.1** The appellant submits that the disputed ITC of Rs3,77,640/-, duly reflected as IGST in GSTR-2A, was inadvertently claimed under CGST and SGST in GSTR-3B due to a technical and clerical error. The appellant submits that there was no wrongful availment of ITC and no loss of revenue to the Government.

**4.2** It is further submitted that the discrepancy was purely procedural and occurred due to an inadvertent mistake. Hence, the provisions of Section 73 are not attracted, as there was neither any intention to evade tax nor any excess availment or utilisation of ITC.

**4.3** The appellant, therefore, prays that the demand of tax, interest and penalty confirmed by the authorities below may kindly be set aside and the appeal be allowed.

**4.4** The appellant has relied upon several judicial precedents which are produced below-

*The Hon'ble Kerala High Court, in Rejimon Padickapparambil Alex v. Union of India, W.A. No. 54 of 2024, decided on 26.11.2024 (D.B.)*

*The Hon'ble High court of Kerala in the case of Padiken Silks.*

**5.0 SUBMISSION OF THE RESPONDENT**

**5.1** The learned departmental representative submitted in the argument that availment of ITC under an incorrect tax head is not permissible under the statutory scheme. It was submitted that where there is a shortfall under a particular tax head, the taxpayer is required to discharge the liability under that head and any excess payment or credit under another head can be dealt with by way of refund or other remedy, subject to the provisions of law. The learned departmental representative accordingly supported the impugned order and prayed for rejection of this Appeal.

**6.0 FINDINGS**

**6.1** We have carefully considered the submissions made by both the parties and have examined the material available on record. The Show Cause Notice was issued under Section 73 of the Act, pursuant to which the Order-in-Original dated 18.03.2023 was passed, confirming the demand along with applicable interest and penalty.

**6.2** The First Appellate Authority, upon examination of the grounds of appeal, documents and submissions made by the appellant, partly allowed the appeal and modified the Order-in-Original. The comparative position of the demand confirmed in the Order-in-Original and the amount sustained in appeal is tabulated below:

| S. No. | Particulars | Amount as per Order-in-Original (?) | Amount Sustained by First Appellate Authority (?) | Amount Dropped/Reduced (?) |
|---|---|---|---|---|
| 1. | Tax / ITC | 4,56,174.00 | 3,72,121.34 | **84,052.66** |
| 2. | Interest | 6,35,149.00 | 5,23,888.54 | **1,11,260.46** |
| 3. | Penalty | 49,270.00 | 37,212.12 | **12,057.88** |
| **Total** | | **11,40,593.00** | **9,33,222.00** | **2,07,371.00** |

Thus, it is observed that against the total demand of Rs.11,40,593/- confirmed in the Order-in-Original, the First Appellate Authority sustained a demand of Rs.9,33,222/- and granted relief to the appellant to the extent of Rs.2,07,371/-.

**6.3** Further, we observed that, after examine of the record the First Appellate Authority has recorded findings as below: -

That the appellant has claimed ITC for the year 2017-18 in GSTR-3B Rs. 78,22,334.06/- (IGST 4,55,780.18 + CGST 36,83,276.94 + SGST 36,83,27.94) while the ITC claimed in GSTR- 2A was Rs. 7402950.00 (IGST 3,92,300.00 + CGST 35,05,325.00 + SGST 35,05,325.00). Thus, the difference in the claimed ITC Rs. 419384.06 (IGST 63480.18 + CGST 177951.94).

**6.4** That the First Appellate Authority has recorded the fact that the Appellant has claimed IGST in GSTR 2-A RS. 8,33,420.18 while in GSTR-3B 455780.18. Based on this, the IGST of Rs. 63480.18 which was reversed by the Adjudicating Authority, was not accepted. Thus, The RITC related to IGST Rs. 63480.18 has been allowed to the Appellant.

Apart from the above, upon examination, the First Appellate Authority determined the reversal of SGST of Rs. 177951.94 and CGST of Rs. 177951.94 as GST liability has been considered proper. The said reversal has also been thoroughly examined by us. Upon examination, the decision of the First Appellate Authority was found to be worthy of being upheld, because the appellant did not present before us any such fact on the basis of which the opinion of the First Appellate Authority could be interfered with.

**6.5** On a cumulative consideration of the facts and circumstances, we find that the issue raised by the appellant in appeal ground has no leg to stand, because after detail examination of the record the first appellate authority has rightly reverse the ITC Rs. 372121.34 (CGST 186060.67 + SGST 186060.67) and accordingly imposed penalty 37212.12, interest Rs. 523888.54/-, being endorsed by us.

**6.6** As far as the precedents quoted by the appellant is not relevant in his case because the content of those precedents are entirely different from his matter. So, the Appellant could not get any support of those precedents.

**6.7** Moreover, no new facts or records have been produced by the Appellant before this Bench, so that we are of the opinion that there is no any ground at all in the favour of the Appellant.

**ORDER**

Thus, the appeal filed by the Appellant is hereby dismissed.

Accordingly, the order of first appeal is confirmed.

(Santosh Kumar Srivastava)

(Arvind Kumar)

**Dated: 14.09.2026**