GSTAT

State Bench Agra

Court No. Court I

APL/74/AGR/2026

RAHUL KUMAR DWIVEDI **.....Appellant**

Versus

M/S ASP FABRICKS, PARTNER, 0 0 AGRA UPAGR 282005 **.....Respondent**

Quorum

Hon'ble Ajeet Singh, Member(Judicial)
Hon'ble Vivek Kumar, Member (Technical)

Counsel for Appellant
SH. MUKESH KUMAR, AUTHORIZED REPRESENTATIVE

Counsel for Respondent

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

whether remand order : No

Order reference no. : ZA090401026000025H **Date of order :** 06/10/2026

1.	GSTIN/Temporary ID/UIN - 09AATFA4768L1ZL	
2.	Appeal Case Reference no. - APL/74/AGR/2026	Date - 17/04/2026
3.	Name of the appellant - Rahul Kumar Dwivedi , rahul.231978@gov.in , 7235003235	
4.	Name of the respondant - 1. M/S ASP FABRICKS , hanishca@gmail.com , 9319933820	
5.	Order appealed against - AD0906240643810	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD090925347098S	Date - 19/08/2025
6.	Personal Hearing - 06/10/2026 18/08/2026 05/08/2026	
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	

8.	Order in brief - The impugned order passed by the First Appellate Authority is found in full compliance with the legal provisions. Accordingly, the first appellate order is upheld and the departmental appeal is dismissed.

Summary of Order

9.	If demand order then whether demand quantified: No

10.	For Other orders and Demand orders which are not quantified:	
Issues as raised by proper officer	Issues as determined by Appellate/Revisional authority	Order by GST Appellate Tribunal
Short or non-payment of tax	ADD COMM GRADE 2 APPEAL 3RD AGRA	

Place :AGRA

Date : 07.10.2026

Signature

AGRA Sandeep Yadav

Designation : Stenographer/Law researcher

Jurisdiction :Agra

ORDER

Dated- 06.10.2025

Per- Ajeet Singh (Judicial Member)

Present appeal has been preferred, u/s 112(1) of Central Goods and Services Tax, Act, 2017/ UP Goods and Services Tax, Act, 2017 (for short " CGST/UPGST, Act") against order dated 19.08.2025, passed by Additional Commissioner, Gr-II, appeal IIIrd state tax, Agra, in first appeal no. AGR3/000500/2024, whereby first appeal filed by respondent herein has been allowed resulted setting aside amount of tax and penalty imposed upon it u/s 74 CGST/UPGST, Act.

Briefly stated, factual matrix of the case are that, respondent's business firm in the name and style " Bhaiya Traders" GSTIN 09HIDPK9286GIZN, had shown inward supply of Rs. 31,500/- with tax invoice no. 05 dated- 20.01.2022, it is the further case of Revenue that on verification of the firm on GST portal, aforesaid firm was found to be bogus or non-existent and no goods were purchased by the said firm and it was only shown to claim the income tax credit with malafide intention. On the above, a SCN was issued to respondent which was not responded. Proper officer has passed ex-parte order merely on the ground that respondent was not in a position to reply or explain to SCN. As per such ex-parte order proper officer raised demand or Rs. 2835/- as CGST, Rs.2835/- as SGST and same amount of penalty. In this way, total demand of Rs. 11340/- was raised against respondent.

Respondent has preferred first appeal before first appellate authority, which was allowed by holding that proper officer had passed erroneous order for not considering or declining the relevant papers, hence present appeal by Revenue.

We have heard learned DR and perused the record carefully. The question before the Tribunal is formulated as under-

Whether learned first appellate authority was on right way in allowing the first appeal filed by respondent?

FINDINGS WITH REASON.

As per case of Revenue, the relevant year was 2021-22, month January,2022. Allegation against respondent was that his firm was found to be bogus one at the time of its verification on GST common portal. In our view, a firm may only said to be bogus firm if it is in non-existence. While in the present matter respondent's firm was registered having GSTIN stated in the beginning of order. Apart from that for the relevant year appellant has submitted GSTR-1, GSTR-3B and as held by learned first appellate authority. We are of the considered opinion that Revenue has remained fail to show that respondent had evaded any amount of tax.

Learned DR has submitted that respondent's firm was non-existent but as recorded above firm was existence with its premises at 19A, Radha Vihar, Kamla Nagar, Agra and nature of its business was manufacturing of different items. Thus, department has raised only two main grounds to challenge the propriety of impugned order passed by first appellate authority. One is non- existence of firm concerned and second is that no goods was found on its premises at the relevant time.

As noted earlier, firm concerned was found to be existent with a premises situated at 19A, Radha Vihar, Kamla Nagar Agra, bearing GSTIN stated above and learned proper officer have not considered the facts and circumstances of the case in proper perspective and according to law applicable thereto. In this way Learned first appellate authority has rightly allowed the first appeal resulted setting aside of demand of tax plus penalty of a very small amount of Rs. 11,340/-. Accordingly, question formulated here is answered in positive and against the appellant/Revenue.

Consequently, this second appeal fails and accordingly dismissed by upholding the findings recorded by first appellate authority. In the circumstances no order as to cost.

There is no pending interim application in the appeals.

Order is pronounced in open court on this day of 06th of October, 2026.

Copy of order be communicated to all concerned, as per rules.

(Ajeet Singh)

(Vivek Kumar)

Dated: 06.10.2026