GOODS AND SERVICES TAX APPELLATE TRIBUNAL

BENGALURU BENCH

DIVISION BENCH – COURT NO. 3

Appeal No APL/31BUR/2026

M/s Vintek Control Systems **……..Appellant**

Versus

The Commissioner of Central Tax, Bengaluru **…….Respondent**

Counsel for Appellant	**Counsel for Respondent**
Sri Shiva Rao Ajjavara	Sri. Prabhat Kumar
Advocate	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: No

1.	GSTIN	29AJSPM4331K1ZN
2.	Appeal Case Reference No.	Appeal/BUR/31/2026
	Appeal Date	06-05-2026
3.	Name of the Appellant	Sri Kariyappa Alahalli Manjappa (Proprietor of M/s Vintek Control Systems), Plot No. 30P, 4/2, KIADB Industrial Area, 1st Phase, Dabaspet,

		Nelamangala Taluk, Bengaluru Rural – 562111 Through Sri Shiva Rao Ajjavara, Advocate
4.	Name of the Respondent	The Superintendent of Central Tax, BNWD-3 Range, Bangalore North West Commissionerate, Shivajinagar, Bengaluru 560051 Through Departmental Representative, Central Tax, Government of India
5.	Order Appealed Against	Order-in-Appeal No. 57/2025-26 passed by the Joint Commissioner of Central Tax, GST Appeals-II, Bengaluru
	Order Type	Order-in-Appeal under Section 107(11), affirming Demand Order
	Reference No	DIN 20250557000000002E5A; affirming OIO No. 29/2024-25 OIO SUPDT BNWD3 dated 24-04-2024 (DIN 20240457YX000000A146)
	Order Date	30-05-2025
6.	Personal Hearing	31-08-2026 and 17-09-2026
7.	Order in Brief	Appeal dismissed. The Order-in-Appeal and the Order-in-Original are upheld, subject only to correction of the arithmetical error in the total tax, which stands at Rs. 1,35,231/-. The Appellant failed to discharge the burden under Section 155 of proving the conditions of Section 16(2), including actual payment of

<table>
<tr><td></td><td></td><td colspan="2">tax by the suppliers under Section 16(2)(c): no supplier certificate under Circular No. 183/15/2022-GST, no e-way bill and no transport or stock records were produced at any stage.</td></tr>
<tr><td colspan="4">Summary of Order</td></tr>
<tr><td>8.</td><td>If Demand order then whether Demand Quantified</td><td colspan="2">Yes (demand quantified in the final order; interest computation to be made under Rule 88B(3)).</td></tr>
<tr><td>9.</td><td colspan="3">For Other Orders and Demand Orders which are Not Quantified</td></tr>
<tr><td></td><td>Issues as Raised by Proper Officer</td><td>Issues as determined by Appellate/ Revisional Authority</td><td>Order by GST Appellate Tribunal</td></tr>
<tr><td></td><td>Excess ITC compared with GSTR-2A; alleged non-payment of tax by two suppliers, invoking Section 16(2)(c), with interest and penalty.</td><td>Order-in-Appeal affirmed the adjudication demand under Section 73(9).</td><td>Section 16(2)(c) applies as enacted; appellant did not prove supplier tax payment as required by Section 155 and produced no certificate under Circular No. 183/15/2022-GST. Genuine inter-State movement was not established by e-way bill/transport evidence. Tax ₹1,35,231 and penalty ₹33,266 upheld; interest to be computed under Rule 88B(3), communicated before recovery; re-availment under Section</td></tr>
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			41(2) subject to law preserved.
10.	If remanded with Directions: Not applicable		

Place: Bengaluru **Date: 06-10-2026**

FINAL ORDER

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

1. The Appellant purchased a fire pump from a supplier in Chennai for Rs. 14,00,000/-, tax included. According to the Appellant, the supplier did not report the sale in its returns. Nothing on record shows whether the supplier paid the tax to the Government. The Appellant nevertheless claims the input tax credit. Section 16(2)(c) of the CGST Act allows that credit only where the tax charged has actually been paid to the Government, and the Supreme Court has recently declined to interfere with a judgment upholding that provision. The question in this appeal is, therefore, essentially one of fact: has the Appellant proved that the suppliers paid the tax?

2. This appeal is filed under Section 112 of the Central Goods and Services Tax Act, 2017 ("the CGST Act") against Order-in-Appeal No. 57/2025-26 dated 30.05.2025 (DIN 20250557000000002E5A), passed in GST Appeal No. 117/2024-25 A-II (ADC) by the Joint Commissioner of Central Tax, GST Appeals-II, Bengaluru ("the First Appellate Authority"). By that order, the

First Appellate Authority affirmed Order-in-Original No. 29/2024-25 OIO SUPDT BNWD3 dated 24.04.2024 (DIN 20240457YX000000A146), passed under Section 73(9) by the Superintendent of Central Tax, BNWD-3 Range, Bengaluru North-West Commissionerate ("the Adjudicating Authority").

3. The Appellant, Shri Kariyappa Alahalli Manjappa, is the proprietor of M/s Vintek Control Systems, Plot No. 30P, 4/2, KIADB Industrial Area, 1st Phase, Dabaspet, Nelamangala Taluk, Bengaluru Rural – 562111 (GSTIN 29AJSPM4331K1ZN). The dispute relates to the financial year 2018-19. The authorities below invoked Sections 16(2)(c), 50(3), 73(1), 73(9) and 122(2)(a) of the CGST Act and of the Karnataka Goods and Services Tax Act, 2017 ("the KGST Act"), read with Section 20 of the Integrated Goods and Services Tax Act, 2017 ("the IGST Act") in respect of integrated tax.

4. The provisions of the KGST Act material to this appeal are identical to those of the CGST Act. A reference in this order to a provision of the CGST Act or of the Central Goods and Services Tax Rules, 2017 ("the CGST Rules") shall include the corresponding provision of the KGST Act and the KGST Rules. By virtue of Section 20 of the IGST Act, the same provisions govern integrated tax.

A. FACTS

5. On scrutiny of the returns for 2018-19 under Section 61, the proper officer found that the input tax credit ("ITC") availed in FORM GSTR-3B exceeded

the credit reflected in FORM GSTR-2A. He communicated the discrepancy in FORM GST ASMT-10 dated 03.10.2023. The Appellant replied in FORM GST ASMT-11 on 07.12.2023. The reply was not found acceptable.

6. A show cause notice in FORM GST DRC-01, No. 39/2023-24 SUPDT BNWD3 dated 28.12.2023 (DIN 20231257YX000022222F), was thereupon issued under Section 73(1), proposing the following demand:

FY 2018-19 (Rs.)	IGST	CGST	SGST
ITC availed as per GSTR-3B (a)	12,67,517	72,25,676	72,25,676
ITC in GSTR-2A as per GSTR-9 (b)	11,34,862	72,24,388	72,24,388
Difference (a – b)	1,32,655	1,288	1,288

7. The notice rested on a single ground, set out in its paragraphs 3.7 and 4.3: that the Appellant had availed credit on supplies on which the suppliers had not paid the tax to the Government, contrary to Section 16(2). The notice relied only on the Appellant's own returns and the ASMT-10. It did not allege that the goods were not received, that any invoice was fictitious, or that there was fraud, wilful misstatement or suppression. By paragraph 8, the Appellant was called upon to "produce all the evidence which he intends to rely upon in support of his defence".

8. The Appellant replied on 06.02.2024. He attributed the difference to two suppliers who had not filed FORM GSTR-1: M/s Naveen's, No. 2, Bazaar

Street, Royapuram, Chennai – 600013 (GSTIN 33ADHPN3168J1ZE), and M/s Classic Power Company, BSK 2nd Stage, Bengaluru. In respect of M/s Naveen's, he took the tax of Rs. 1,50,000/- shown in the invoice, set off Rs. 17,345.46 of excess credit reflected in other months, and arrived at the IGST difference of Rs. 1,32,654.54. He stated that goods worth Rs. 14,00,000/- were purchased under Bill No. 1789N/2018 and paid for by net banking on 27.04.2018, 26.06.2018 and 27.06.2018. He contended that a bona fide purchaser cannot be made to suffer for the default of the supplier, and relied on *D.Y. Beathel Enterprises*, *Agarwal & Brothers*, *Suncraft Energy* and *Gopalakrishnan Pillai*. No document was produced in respect of M/s Classic Power Company. In respect of M/s Naveen's, no e-way bill, transport document or certificate from the supplier was produced.

9. The Adjudicating Authority fixed personal hearings on 16.02.2024, 20.03.2024 and 08.04.2024, and sent notices by speed post and by e-mail. The Appellant did not appear on any of those dates and did not seek an adjournment.

10. By the Order-in-Original dated 24.04.2024, the Adjudicating Authority held that the suppliers had not reported the invoices and "appear to have not paid the tax", and that the Appellant had produced nothing to establish otherwise. It confirmed the demand of IGST Rs. 1,32,655/-, CGST Rs. 1,288/- and SGST Rs. 1,288/- under Section 73(9), ordered interest under Section 50(3), and imposed a penalty of Rs. 33,266/- (IGST Rs. 13,266/-, CGST Rs. 10,000/-,

SGST Rs. 10,000/-) under Section 122(2)(a) read with Section 73(9). The order does not refer to Circular No. 183/15/2022-GST, and does not record any verification of the suppliers' returns.

11. The Appellant preferred a first appeal in FORM GST APL-01 on 26.06.2024, within the time allowed, and made the pre-deposit under Section 107(6). At the hearing on 16.05.2025, the then Authorised Representative, Shri A. Ravish Rao, Chartered Accountant, submitted that M/s Naveen's had not filed GSTR-1, that the Appellant had purchased a portable fire pump from that supplier and exported it, and that *Suncraft Energy* supported the Appellant's case.

12. The First Appellate Authority dismissed the appeal on 30.05.2025. It applied paragraphs 4, 4.1.1 and 4.1.2 of Circular No. 183/15/2022-GST dated 27.12.2022, and also referred to Circular No. 193/05/2023-GST dated 17.07.2023. It held that, the difference for each supplier being below Rs. 5 lakh, the Appellant was required to produce a certificate from the supplier confirming payment of the tax, and had produced none. It held that the dismissal in limine of the Revenue's special leave petition in *Suncraft Energy* did not declare any law, and relied on *ALD Automotive Pvt. Ltd. v. Commercial Tax Officer*, *M/s Aastha Enterprises v. State of Bihar* (Patna High Court) and *M/s Pinstar Automotive India Pvt. Ltd.* (Madras High Court). Circular No. 193/05/2023-GST concerns the period from 01.04.2019 to

31.12.2021; we record the reference only as part of the history and do not rely on it.

13. Two observations in that order call for clarification. Paragraph 3 describes the notice as proposing a demand "under section 74". That appears to be a typographical error, since the notice was issued, and the demand confirmed, under Section 73, and the rest of the order proceeds on that footing. The order also observes in passing that the Appellant furnished "proof of payment and receipt of goods". It does not identify the document evidencing receipt, and it does not examine any e-way bill, transport record, stock record or export document. The observation is therefore not a finding on receipt reached upon appraisal of evidence. We examine that question independently under Issue (iii).

B. THE APPEAL BEFORE THIS TRIBUNAL

14. The appeal in FORM GST APL-05 was verified on 06.05.2026. The grounds state that the authorities erred in disallowing credit of Rs. 1,35,231/- and in levying a penalty of Rs. 33,266/-. The amount in dispute is stated as Rs. 1,68,497/-.

15. The date of communication of the Order-in-Appeal is shown as 30.05.2025 in the online form and as 02.06.2025 in the statement of facts. Both dates fall before 01.04.2026. Notification S.O. 4220(E) dated 17.09.2025, issued under

Section 112(1), permitted appeals against such orders to be filed up to 30.06.2026, a date later extended. The appeal is within time.

16. The Appellant has made a pre-deposit of Rs. 13,523.10 (IGST Rs. 13,265.50, CGST Rs. 128.80, SGST Rs. 128.80), which is ten per cent of the tax in dispute. This satisfies Section 112(8), which, after its amendment by the Finance (No. 2) Act, 2024, requires ten per cent of the remaining amount of tax in dispute in addition to the amount paid under Section 107(6). The reference to twenty per cent in the printed format reflects the provision as it earlier stood and is of no consequence. The appeal is maintainable, and recovery of the balance remains stayed under Section 112(9).

17. Written submissions dated 16.09.2026 were filed with six annexures: the purchase order and the invoice of M/s Naveen's; a statement of payments with extracts of the bank statement; the export invoice, shipping bill and packing slip; and copies of the decisions in *Suncraft Energy*, *Ecom Gill Coffee Trading* and *Instakart Services*. The submissions assert that "e-way bills, transport records and stock records" establish the movement and receipt of the goods. None of those records is annexed.

18. The Appellant has not questioned the jurisdiction of the Adjudicating Authority, the service of the notice, or the period within which the notice was issued and the order passed. No claim has been made under Section 128A. These matters were not argued, and we express no view on them.

C. THE RECORD

The composition of the demand

19. The demand comprises IGST of Rs. 1,32,655/-, and CGST and SGST of Rs. 1,288/- each. On the Appellant's own working (paragraph 8), the IGST represents the tax of Rs. 1,50,000/- charged in the invoice of M/s Naveen's, less Rs. 17,345.46 of excess credit relating to other months, that is, Rs. 1,32,654.54, rounded to Rs. 1,32,655/-. M/s Classic Power Company is located in Bengaluru, and its supplies to Dabaspet would attract CGST and SGST, not IGST. On the Appellant's own explanation, therefore, the CGST and SGST of Rs. 1,288/- each relate to M/s Classic Power Company. No document of any kind has been produced for that supplier. The Appellant's case, both below and before us, concerns only the purchase from M/s Naveen's.

20. Section 73(9) prescribes a penalty of ten per cent of the tax or ten thousand rupees, whichever is higher. The Adjudicating Authority applied it separately under each enactment, as follows:

Head	Tax (Rs.)	10% of tax (Rs.)	Minimum (Rs.)	Penalty (Rs.)
IGST	1,32,655	13,265.50	10,000	13,266
CGST	1,288	128.80	10,000	10,000
SGST	1,288	128.80	10,000	10,000
Total	**1,35,231**			**33,266**

The documents relied upon

21. The Appellant relies on the following documents, which we describe as they appear on the copies produced:

Document	Particulars as they appear
Purchase order	No. VINTEK/18-19/V843/3508 dated 23.04.2018 on M/s Naveen's, against its quotation of 18.04.2018, for one Godiva GP17/10 portable fire pump; value Rs. 12,50,000/-; GST "extra at actuals"; delivery "by vehicle".
Supplier's invoice	Bill No. 1789N/2018 dated 27.06.2018; value Rs. 12,50,000/- plus "GST 12%" of Rs. 1,50,000/-; total Rs. 14,00,000/-; a handwritten endorsement that appears to be a goods-receipt reference dated 27.06.2018.
Payments	Rs. 3,75,025.00 (RTGS, 27.04.2018), Rs. 8,75,052.00 (RTGS, 26.06.2018) and Rs. 1,50,017.70 (NEFT, 27.06.2018): total Rs. 14,00,094.70. The bank extract shows the debit of Rs. 3,75,025/- to "NAVEENS" on 27.04.2018; the other pages are largely illegible.
Export invoice	No. 00352 dated 09.07.2018 to PERG Electrical Trading LLC, Dubai; one "Govida GP17/10" portable fire pump, HSN 85371000, Rs. 12,50,000/-; "GST of Rs. 2,25,000/- is exempted vide LUT dt 13.06.2018"; "Purchased From Naveen's". The Appellant describes it as the "corrected" export invoice.

Document	Particulars as they appear
Shipping bill	No. 6251496 dated 16.07.2018, ICD Sabarmati, Ahmedabad; let export order 19.07.2018; FOB Rs. 12,50,000/-; export under LUT; drawback Rs. 25,000/-. As far as legible, the item is a "CONTROL PANEL" under 85371000, and the State of origin is Gujarat.
Packing slip	Dated 09.07.2018; one package, 150 kg; "Godiva make pump with prime mover control panel".

22. Certain features of these documents bear upon the weight they can carry, and we note them for that limited purpose. We record no finding of fraud or collusion. None is alleged, and none can be made in proceedings under Section 73.

(a) The invoice of M/s Naveen's bears HSN 61171030, a code for knitted clothing accessories, for a fire pump. It charges "GST 12%" without describing it as integrated tax, although the supply is inter-State. It carries also TIN and CST numbers of the pre-GST regime.

(b) The export invoice and the shipping bill classify the goods under 85371000 (control panels). The export invoice computes notional tax at 18%. The shipping bill shows Gujarat as the State of origin.

(c) No e-way bill, lorry receipt, freight bill, goods receipt note or stock register has been produced for the movement of the goods from Chennai to Dabaspet, or from Dabaspet to Ahmedabad.

(d) The export documents were first produced before the First Appellate Authority, whose order does not discuss them.

D. SUBMISSIONS

On behalf of the Appellant

23. Sri Shiva Rao Ajjavara, learned Authorised Representative, advanced four submissions. It was submitted, first, that the demand rests on nothing more than a comparison of GSTR-3B with GSTR-2A, an approach which Circular No. 183/15/2022-GST was issued to prevent. Secondly, it was urged that the purchase order, the invoice and the payments through the bank prove the purchase, and that the Customs export documents, being independent public records, prove receipt of the goods; the test laid down in *State of Karnataka v. Ecom Gill Coffee Trading Pvt. Ltd.* is thus satisfied. Thirdly, it was contended that a bona fide purchaser cannot be denied credit for the default of the supplier. Reliance was placed on *Suncraft Energy Pvt. Ltd. v. Assistant Commissioner, State Tax* (Calcutta High Court, M.A.T. No. 1218 of 2023, decided on 02.08.2023), and principally on *Instakart Services Pvt. Ltd. v. Union of India* (W.P. No. 4917 of 2021, decided on 09.02.2026), in which the jurisdictional High Court read down Section 16(2)(c) and Rule 36(4). Lastly, it was submitted that the authorities never computed the interest, and that the penalty must fall with the tax.

On behalf of the Revenue

24. The learned Departmental Representative supported the orders below. It was submitted that the conditions in Section 16(2) are cumulative, and that Section 155 casts the burden of proving eligibility on the person claiming the credit. An invoice and payment through the bank do not, by themselves, discharge that burden, as held in *Ecom Gill Coffee Trading*. It was further submitted that the Circular afforded the Appellant a simple course, namely a certificate from the supplier, which the Appellant never adopted. ITC, being a statutory concession, is available only on the terms of the statute as held in the case of ALD Automotive Pvt. Ltd. v. The Commercial Tax Officer & Ors., (2019) 13 SCC 225. No interference, it was urged, is warranted.

E. ISSUES FOR DETERMINATION

25. We have heard both sides and perused the record. The following issues arise for determination:

(i). Whether, after the decision of the Supreme Court in *Bhandari Scrap Traders v. Union of India*, Section 16(2)(c) can be read down in favour of a bona fide purchaser.

(ii). Whether the Appellant has proved, as Section 155 requires, that the suppliers paid the tax; and whether the omission of the Adjudicating Authority to apply Circular No. 183/15/2022-GST avails the Appellant.

(iii). Whether the Appellant has established his plea that the goods actually moved from Chennai and were received by him.

(iv). What tax, interest and penalty are payable.

F. ANALYSIS AND FINDINGS

Issue (i): The scope of Section 16(2)(c)

26. Section 16(1) confers the entitlement to credit; Section 16(2) conditions it. Sub-section (2) opens with a non obstante clause and provides that no registered person "shall be entitled" to credit "unless" each of the listed conditions is satisfied. The conditions are cumulative. Clause (c), as it stood in 2018-19, required that, subject to Section 41 or Section 43A, "the tax charged in respect of such supply has been actually paid to the Government". Section 155 places the burden of proving eligibility on the claimant. It is settled that credit is a creature of statute and is available only on the conditions the statute prescribes as held by the Honourable Supreme Court in the cases of *Jayam & Co. v. Assistant Commissioner*, (2016) 15 SCC 125 and *ALD Automotive Pvt. Ltd. v. Commercial Tax Officer*, (2019) 13 SCC 225.

27. In *Instakart Services*, decided on 09.02.2026, the High Court of Karnataka, following the Tripura High Court in *Sahil Enterprises v. Union of India* (decided on 06.01.2026), read down Section 16(2)(c) so that it would not operate against a bona fide recipient who had done all that lay within his

control. A decision of the jurisdictional High Court ordinarily binds this Bench.

28. The question has since been considered by the Supreme Court. In *Bhandari Scrap Traders v. Union of India & Ors.*, SLP (C) No. 23931 of 2026, decided on 24.07.2026 [2026 LiveLaw (SC) 725], the Supreme Court dismissed the special leave petitions against the judgment of the Gujarat High Court in *Maruti Enterprise v. Union of India*, which had upheld Section 16(2)(c) and declined to read it down. The dismissal was accompanied by reasons. The Supreme Court held that the Delhi Value Added Tax Act, 2004 and the CGST Act rest on different statutory schemes, so that the decisions under the Delhi statute protecting bona fide purchasers cannot be carried over. It observed that Sections 41, 73 and 74 provide a framework under which a purchaser may re-avail credit once the supplier discharges the tax. It found no ground to hold Section 16(2)(c) unconstitutional, and agreed with the High Court, which had refused to read it down.

29. An order dismissing a special leave petition does not ordinarily declare the law. Where, however, the Supreme Court gives reasons, the law stated in those reasons is a declaration under Article 141 and binds all courts and tribunals as held by the Supreme Court in the case of *Kunhayammed v. State of Kerala*, (2000) 6 SCC 359. The High Court of Rajasthan has so understood *Bhandari Scrap Traders* in *Sumetco Alloys Pvt. Ltd. v. Union of India* (D.B.

Civil Writ Petition No. 9323 of 2026, decided on 13.08.2026), and declined to follow *Sahil Enterprises* and *Instakart Services*.

30. The High Court of Karnataka decided *Instakart Services* before the Supreme Court pronounced on the question, and did not have the benefit of that decision. The law declared by the Supreme Court now governs. With the utmost respect to the jurisdictional High Court, we are bound by Article 141 to apply Section 16(2)(c) as enacted and upheld.

31. *Suncraft Energy* does not advance the Appellant's case either. The Revenue's special leave petition against that judgment was dismissed in limine. The view that a purchaser may be proceeded against only in exceptional cases cannot be reconciled with the statutory scheme affirmed in *Bhandari Scrap Traders*. The same applies to the other decisions cited in the reply to the notice.

32. This does not leave an honest purchaser without remedy. For 2017-18 and 2018-19, Circular No. 183/15/2022-GST enables the purchaser to establish the supplier's payment by a certificate. The proviso to Section 41(2), in turn, permits the purchaser to re-avail the credit once the supplier pays the tax, subject to the conditions and time limits prescribed by law. What the purchaser cannot do is retain the credit when nothing on record shows that the tax reached the Government.

33. Issue (i) is answered accordingly. Section 16(2)(c) applies as enacted and cannot be read down. Payment of tax to the supplier, however well proved,

does not by itself satisfy the clause. The Appellant must prove that the suppliers paid the tax to the Government at least when the recipient was put on notice by the Revenue with the details of the supplier.

Issue (ii): Proof of payment of tax by the suppliers

34. We accept the Appellant's submission that, for 2018-19, a shortfall in GSTR-2A does not by itself establish that the supplier failed to pay the tax. FORM GSTR-2A is a facilitator for self-assessment and not an instrument of assessment as held by the Honourable Supreme Court in the case of Union *of India v. Bharti Airtel Ltd.*, (2022) 4 SCC 328. Neither Section 16(2)(aa) nor Rule 36(4) was in force during that year. It is for this reason that the Board issued Circular No. 183/15/2022-GST. Under paragraph 4, the proper officer is to verify that the recipient holds a tax invoice, has received the goods or services, and has paid the supplier. The recipient must then establish that the supplier paid the tax. Where the difference in respect of a supplier exceeds Rs. 5 lakh, a certificate from a Chartered Accountant or Cost Accountant is required (paragraph 4.1.1 of the Circular); where it does not, a certificate from the supplier suffices (paragraph 4.1.2 of the Circular). In the present case, the difference in respect of each supplier is well below Rs. 5 lakhs.

35. The Circular does not dispense with Section 16(2)(c). Nor does it shift to the Department the burden that Section 155 places on the claimant. It prescribes the manner in which the recipient may discharge that burden. That is a sensible arrangement. It is the recipient, and not the Department, who deals

with the supplier, and a purchaser who has paid a supplier in full through the bank may reasonably be expected to obtain from that supplier a certificate of payment of tax.

36. The Appellant had ample opportunity to produce that certificate. The ASMT-10 of 03.10.2023 raised the mismatch. The notice of 28.12.2023 stated the ground plainly and called for all the evidence relied upon. The Adjudicating Authority fixed three dates of hearing, and the Appellant attended none. On 30.05.2025, the First Appellate Authority held in terms that the certificate was required and had not been produced. The present appeal was filed about eleven months thereafter, and written submissions were filed in September 2026. At the hearing on 17-09-2026, the learned Authorised Representative was specifically asked whether a certificate from either supplier, or any other proof of payment of tax, could be produced. None was produced, and no time was sought. To a specific question the Authorised Representative for the Appellant categorically submits that they could not reach out to the supplier even after repeated attempt.

37. At no stage, therefore, has the Appellant produced a certificate from either supplier, a certificate from an accountant, a copy of either supplier's GSTR-3B, or even a letter to either supplier seeking confirmation. Nothing on record explains why a supplier who was paid in full through the bank could not be approached. Neither the grounds of appeal nor the written submissions address the finding of the First Appellate Authority on this point.

38. In *State of Karnataka v. Ecom Gill Coffee Trading Pvt. Ltd.* (Civil Appeal No. 230 of 2023, decided on 13.03.2023; 2023 INSC 212), a decision on which the Appellant himself relies, the Supreme Court held that "the burden of proving that the ITC claim is correct lies upon the purchasing dealer claiming such ITC", and that "mere production of the invoices or the payment made by cheques is not enough". Those observations were made under Section 70 of the Karnataka Value Added Tax Act, 2003. Section 155 of the CGST Act states the same principle in express terms.

39. It was contended that the adjudication was mechanical. The contention is not without substance. The Order-in-Original does not refer to the Circular, and the Adjudicating Authority did not call for the supplier's certificate. The Circular binds the Department. In *Abhimaani Structures and Engineering Pvt. Ltd. v. Superintendent of Central Tax* (W.P. No. 35021 of 2025, decided on 28.11.2025), the High Court of Karnataka set aside a demand confirmed on a bare comparison of GSTR-3B with GSTR-2A, without following the Circular. We respectfully follow that principle.

40. The principle, however, does not avail the Appellant on the facts of this case, for three reasons. First, the Appellant remained absent on all three dates of hearing, although Section 75(4) and (5) secured to him a hearing and up to three adjournments. The Adjudicating Authority cannot fairly be faulted for not calling for documents at hearings which the Appellant chose not to attend. Secondly, the First Appellate Authority, whose powers under Section 107(11)

are co-extensive with those of the original authority, did apply the Circular and informed the Appellant precisely what was required. Thirdly, even at this stage of the entire proceedings before this Tribunal as the final fact-finding authority, the Appellant has still produced nothing. In *Abhimaani Structures*, the taxpayer had no opportunity to comply; this Appellant had it repeatedly. A party complaining of a procedural lapse must show real prejudice as held in the case of *State Bank of Patiala v. S.K. Sharma*, (1996) 3 SCC 364. No prejudice is shown.

41. Issue (ii) is, therefore, answered against the Appellant. He has not proved that M/s Naveen's or M/s Classic Power Company paid the tax. The condition in Section 16(2)(c) is not satisfied, and the lapse at the first stage has caused no prejudice. This finding by itself sustains the demand.

Issue (iii): The plea of genuine purchase

42. Our answer to Issue (ii) decides the appeal on the ground stated in the notice. We nonetheless examine this issue because the Appellant's defence of good faith, and his reliance on *Ecom Gill Coffee Trading*, rest on the assertion that the goods moved from Chennai to Dabaspet and were received by him. Having raised that plea, the Appellant must establish it.

43. Section 68 empowers the Government to require documents to accompany goods in transit. Rule 138 of the CGST Rules, substituted by Notification No. 12/2018-Central Tax dated 07.03.2018, made the e-way bill compulsory for

inter-State movement of goods from 01.04.2018, the date notified by Notification No. 15/2018-Central Tax dated 23.03.2018. As the rule stood in June 2018, a registered person causing movement of goods of consignment value exceeding fifty thousand rupees, inclusive of tax, was required to generate the e-way bill on the common portal before the movement commenced. It could be generated by the supplier, the recipient or the transporter. Where the supplier or the transporter generated it, the particulars were made available to the recipient on the portal, with the option to accept or reject them (sub-rules (11) and (12)). Rule 138A required the conveyance to carry the e-way bill, and Section 129 provided for detention of goods moving without it.

44. Every condition of Rule 138 is attracted here. The supply was inter-State. The invoice is dated 27.06.2018. The consignment value was Rs. 14,00,000/-. The purchase order stipulated delivery "by vehicle". An e-way bill was, therefore, mandatory, and the Appellant's own written submissions state that e-way bills exist.

45. The e-way bill records the GSTINs of the parties, the invoice, the value, the places of dispatch and delivery, and the vehicle number. It is generated before the goods move. It is the contemporaneous record that connects the invoice with a vehicle carrying the goods to a stated destination. In *Ecom Gill Coffee Trading*, the Supreme Court held that physical movement is to be proved by, among other things, "details of the vehicle which has delivered the goods,

payment of freight charges, acknowledgement of taking delivery of goods". The Appellant has produced none of these, beyond an unexplained handwritten endorsement on his own copy of the invoice.

46. The e-way bill was within the Appellant's reach. If the supplier generated one, its particulars were available to the Appellant on the portal. If the supplier did not, the Appellant could have generated it himself. The Appellant asserts that e-way bills exist, yet has not produced them at any of the three stages, and offers no explanation. That unexplained omission weighs against the claim that the goods moved as the invoice states.

47. The subsequent movement is equally unrecorded. The Appellant states that the goods were received at Dabaspet and then exported, but the shipping bill was filed at Ahmedabad. Movement of goods worth Rs. 12,50,000/- from Dabaspet to Ahmedabad would itself have required an e-way bill, and none is produced. If the goods instead travelled directly from Chennai to Gujarat on the Appellant's direction, an e-way bill for that movement would show it. None is produced either.

48. The export documents do not fill the gap. To prove that M/s Naveen's supplied the goods that were exported, the Appellant must connect the two sets of documents. As noted in paragraph 22, the invoice of M/s Naveen's describes a fire pump under an apparel code, taxed at 12%. The shipping bill describes a "control panel" under 85371000, of Gujarat origin. The "corrected" export invoice adopts 85371000 and 18%. No goods receipt note, stock entry or

transport record links them, and no explanation has been offered. We do not hold that the exported goods were different goods. We hold only that these documents, in the absence of explanation, do not establish the link. Although no application was made under Rule 112, we have examined these documents under Section 113(1) in the interest of justice. Even if they proved receipt, receipt would go only to Section 16(2)(b); it cannot establish that the supplier paid the tax.

49. This finding does not confirm the demand on a new ground, which Section 75(7) forbids. The demand rests on Section 16(2)(c), the ground stated in the notice; this finding only answers the Appellant's own plea. Paragraph 4 of the very Circular on which the Appellant relies requires the proper officer to verify that the recipient has received the goods or services. Nor do we hold that the absence of an e-way bill defeats credit in every case, for Section 16(2) does not make it a condition. We hold that where a recipient relies on the genuineness of an inter-State purchase above the threshold value, the e-way bill is the primary evidence of movement; and if it is not produced and its absence is not satisfactorily explained, movement must be proved by other reliable contemporaneous evidence, such as lorry receipts, freight payments, goods receipt notes and stock entries. None has been produced. The plea of genuine purchase fails.

Issue (iv): Tax, interest and penalty

50. Tax. The IGST of Rs. 1,32,655/- represents, on the Appellant's own working, the tax charged in the invoice of M/s Naveen's, less the excess credit relating to other months (paragraph 19). It is sustained for the reasons recorded under Issue (ii). No material has been produced in respect of M/s Classic Power Company, and the CGST and SGST of Rs. 1,288/- each are likewise sustained. The tax sustained is, therefore, IGST Rs. 1,32,655/-, CGST Rs. 1,288/- and SGST Rs. 1,288/-, in all Rs. 1,35,231/-.

51. Interest. Interest is compensatory and follows the tax. Section 50(3), substituted by the Finance Act, 2022 with effect from 01.07.2017, levies interest on credit wrongly availed and utilised, at eighteen per cent per annum (Notification No. 13/2017-Central Tax, as amended by Notification No. 9/2022-Central Tax). Rule 88B(3) prescribes the method of computation: interest runs from the date of utilisation to the date of reversal or payment, and credit is treated as utilised when, and to the extent that, the balance in the electronic credit ledger falls below the amount wrongly availed. The liability to interest is upheld. The Appellant's grievance about its computation is, however, well founded. The Order-in-Original directs recovery "at applicable rates" without any working, and records no finding on utilisation. **The proper officer shall compute the interest under Rule 88B(3) and furnish the working to the Appellant before recovery.**

52. Penalty. Section 73(9) mandates a penalty of ten per cent of the tax or ten thousand rupees, whichever is higher, and Section 122(2)(a) is to the same effect. This penalty does not depend on fraud or intent to evade, which are the province of Section 74. The absence of any such finding, therefore, does not assist the Appellant. The table in paragraph 20 shows that the Adjudicating Authority imposed the statutory minimum under each enactment. The penalty of Rs. 33,266/- is upheld.

G. A WORD BEFORE WE PART

53. In upholding Section 16(2)(c), the Gujarat High Court in *Maruti Enterprise* was conscious of the predicament of an honest purchaser who pays the price and the tax, and then loses the credit through a default he can neither see nor prevent. The High Court observed that the Government should consider a technology-driven mechanism enabling recipients to verify, invoice by invoice and in real time, whether their suppliers have paid the tax. The Revenue may also recover the tax from the defaulting supplier under Sections 73 and 74, whereupon the purchaser may re-avail the credit.

54. In 2018, the Appellant could not see his suppliers' GSTR-3B or their payments of tax; the proper officer can. Nothing said here lightens the burden under Section 155, and our decision does not rest on this paragraph. Good administration, however, requires that the proper officer examine the supplier's data before confirming a demand against the purchaser, and pursue

the defaulting supplier with equal diligence. M/s Naveen's is registered in Tamil Nadu, and M/s Classic Power Company may not fall within the Respondent's jurisdiction. We expect the Department to pass this information to the officers having jurisdiction over those suppliers, so that they may proceed in accordance with law. If the tax is recovered, the Appellant's right to re-avail the credit under Section 41 as reaffirmed in *Maruti Enterprise* may then be exercised in accordance with law.

H. ORDER

55. In the result, the appeal is dismissed, with the following directions:

(a) Order-in-Appeal No. 57/2025-26 dated 30.05.2025 and Order-in-Original No. 29/2024-25 OIO SUPDT BNWD3 dated 24.04.2024 are upheld, subject to clause (d).

(b) The demand of tax, namely IGST Rs. 1,32,655/-, CGST Rs. 1,288/- and SGST Rs. 1,288/- (in all Rs. 1,35,231/-), is upheld.

(c) The penalty of Rs. 33,266/- (IGST Rs. 13,266/-, CGST Rs. 10,000/- SGST Rs. 10,000/-) imposed under Section 73(9) read with Section 122(2)(a) is upheld.

(d) Interest under Section 50(3) is payable on the credit wrongly availed and utilised. The proper officer shall compute it in accordance with Rule 88B(3) of the CGST Rules and communicate the working to the Appellant before recovery.

(e) Nothing in this order shall preclude the Appellant from re-availing the credit, to the extent the suppliers pay the tax, under the proviso to Section 41(2) of the CGST Act, subject to the applicable conditions and time limits; nor shall it preclude the Department from proceeding against the suppliers in accordance with law.

(f) The Registry shall forward a copy of this order to the Principal Commissioner of Central Tax, Bengaluru North-West Commissionerate, for appropriate action in the light of paragraphs 53 and 54, including passing the relevant information to the authorities having jurisdiction over the suppliers.

(g) There shall be no order as to costs.

56. The appeal is disposed of in the above terms.

Pronounced in Open Tribunal on this the 8th day of October 2026.

(Prabhakaran P.M.)
Judicial Member

(Ravi Jesuraj S.)
Technical Member (State)

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