GOODS AND SERVICES TAX APPELLATE TRIBUNAL

BENGALURU BENCH

DIVISION BENCH – COURT NO. 3

APPEAL No. APL/137/BUR/2026

M/s Agrico Organics Ltd **……..Appellant**

Versus

The Commissioner of Commercial Taxes, Karnataka **…….Respondent**

Counsel for Appellant	**Counsel for Respondent**
Sri Ved Parkash Batra	Smt. Priya Basappa
Consultant	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 **Date: 09-10-2026**

1.	GSTIN	29AACCA8279L1Z0
2.	Appeal Case Reference No.	Appeal/BUR/137/2026
	Appeal Date	02-05-2026
3.	Name of the Appellant	M/s. Agrico Organics Ltd., 6-1-2098/A-19, Shivanagara, Ward No. 18, Gangavati Road, Sindhanur, Raichur – 584 128;

		Email ID: agricoorganicsltd@gmail.com Through Ved Parkash Batra, Consultant, Email ID: vpbatrasector23@gmail.com
4.	Name of the Respondent	The Commissioner of Commercial Taxes, Karnataka. Through Departmental Representative, Central Tax, Government of India
5.	Order Appealed Against	Order-in-Appeal No. GST.AP.46/2024-25 by the Joint Commissioner of Commercial Taxes (Appeals), Kalaburagi
	Order Type	Order-in-Appeal under Section 107(11), affirming Demand Order
	Reference No	ZD2910250089848 affirming DRC-07 Ref. No. ZD291223057355C dated: 20-12-2023 issued by the Assistant Commissioner of Commercial Taxes, LGSTO-535, Sindhanur.
	Order Date	06-10-2025
6.	Personal Hearing	18-09-2026
7.	Order in Brief	This appeal under section 112(1) of the CGST and KGST Acts, 2017 arises from Order-in-Appeal No. GST.AP.46/2024-25 dated 06.10.2025, which upheld a demand under section 73 for July 2017 to March 2018 of tax of Rs. 4,47,796, interest of Rs. 4,63,468 and penalty of Rs. 44,780. The demand rested only on the difference between input tax credit in GSTR-3B and GSTR-2A. The annual return in Form

		GSTR-9 shows that the credit on purchases is within GSTR-2A, and that the whole difference is the tax on credit notes declared in Table 4I, which the Appellant reported as input tax credit instead of as a reduction of output tax. Table 9 shows that output tax was paid on the full value of supplies, so the reporting error cost the Government no tax. The Tribunal holds that the error is one of form; that the charge in the notice fails on the Revenue's own record; and that the conditions of section 34 urged by the Revenue at the appellate stage were never put in issue in the notice and cannot be decided against the Appellant under section 75(7). Lapses of both the authorities below and the Appellant are recorded. The appeal is allowed on merits. The Order-in-Appeal and the Order-in-Original are set aside with the demand of tax, interest and penalty. The amount paid under protest is to be refunded in accordance with law, and the notice under section 79(1)(c) stands withdrawn.
Summary of Order		
8.	If Demand order then whether Demand Quantified	Yes. The demand originally quantified was: Tax – Rs. 4,47,796 (CGST Rs. 2,23,898 + SGST Rs. 2,23,898); Interest –

<table>
<tr><td></td><td></td><td colspan="2">Rs. 4,63,468 (CGST Rs. 2,31,734 + SGST Rs. 2,31,734); Penalty – Rs. 44,780 (CGST Rs. 22,390 + SGST Rs. 22,390), aggregating to Rs. 9,56,044. However, pursuant to the order of the Appellate Tribunal, the entire demand has been set aside and the determined tax, interest and penalty are Nil.</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 input tax credit availed in GSTR-3B (Rs. 1,16,16,320) compared with GSTR-2A (Rs. 1,11,68,524) for 2017-18; demand of Rs. 4,47,796 under section 73 with interest and penalty</td><td>Appeal dismissed holding that the Appellant had not produced the documents required by Circular No. 183/15/2022-GST and had not met the conditions of section 16(2)</td><td>Appeal allowed on merits; Order-in-Appeal and Order-in-Original set aside; demand of tax, interest and penalty set aside.</td></tr>
<tr><td>10.</td><td colspan="3">If remanded with Directions: Not applicable</td></tr>
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FINAL ORDER

(Per: Shri Ravi Jesuraj S., Technical Member (State)

I. INTRODUCTION

1. M/s. Agrico Organics Ltd. (the Appellant) appeals against Order-in-Appeal No. GST.AP.46/2024-25 dated 06.10.2025 of the Joint Commissioner of Commercial Taxes (Appeals), Kalaburagi (the Appellate Authority). That order upheld Order No. ACCT/LGSTO-535/SND/GST SEC 73 PROCE/2023-24/T.No-4855 dated 19.12.2023 of the Assistant Commissioner of Commercial Taxes, LGSTO-535, Sindhanur (the proper officer), which confirmed a demand under section 73 for 2017-18.

2. The question involved in this appeal is whether a demand raised on the ground that the input tax credit in GSTR-3B exceeded the credit in GSTR-2A can stand, when the Revenue's own record shows that the excess is the tax on credit notes declared in the Appellant's own returns, which the Appellant says it issued for goods returned. The answer turns on whether a reduction of tax that section 34 allows becomes payable because the Appellant reported it in the wrong table of its return.

3. A reference in this order to a provision of the Central Goods and Services Tax Act, 2017 (the CGST Act) or the CGST Rules, 2017 includes the corresponding provision of the Karnataka Goods and Services Tax Act, 2017 or the KGST Rules, 2017.

II. FACTS OF THE CASE

4. The Appellant is a public limited company with its head office in New Delhi. Its depot at Sindhanur sells pesticides falling under HSN 3808. It has been registered under the CGST Act and the KGST Act since 01.07.2017.

5. According to the Appellant, some customers returned goods during 2017-18, and it issued credit notes for them. It did not reduce its output tax by the tax on those credit notes. It added that tax to its input tax credit in its monthly returns in Form GSTR-3B. On 08.11.2019 it filed its annual return for 2017-18 in Form GSTR-9 (ARN AA290318317969H). The annual return shows the credit notes in Table 4I and the resulting difference in Table 6J.

6. On scrutiny of the returns under section 61, the proper officer issued a notice in Form GST ASMT-10 dated 10.08.2022. By letter dated 09.09.2022 the Appellant sought for more time to reply. The order of the proper officer records that it did not respond further. On 23.02.2023 the Joint Commissioner of Commercial Taxes (Admin), Kalaburagi issued Assignment No. 1408 for proceedings under section 73. The proper officer then issued Form GST DRC-01A No. ACCT/LGSTO-535/SND/2022-23/T.No-3574 dated 15.03.2023. Its ground reads:

> "During the tax period 2017-18, the input tax credit available in the GSTR-2A is at Rs. 1,11,68,524/- but you have claimed excess ITC

in form GSTR-3B at Rs. 1,16,16,320/-. Therefore it is proposed to reverse the wrongly availed ITC along with interest & penalty."

7. On 05.06.2023 the Appellant sent a letter dated 12.05.2023, in reply to the DRC-01A, by e-mail to acctlvo535@gmail.com. That is the e-mail address printed on the letterhead of the proper officer's office. The letter explained that the difference was the tax on 110 credit notes issued for goods returned, amounting to Rs. 6,78,081. It stated that it had "increased the amount of ITC in respect of credit notes issued by the taxpayer in the monthly GSTR 3B returns" instead of reducing its tax liability. It enclosed sample credit notes and its annual return, and asked for a virtual hearing under CBIC Instruction No. 390/Misc/3/2019-JC dated 21.08.2020.

8. On 28.08.2023 the proper officer issued a show cause notice in Form GST DRC-01 No. ACCT/LGSTO-535/SND/2023-24/T.No.3074 under section 73(1) on the same ground. The notice recited that the Appellant had replied by letter dated 09.09.2022 and "submitted some of the documents which are not satisfactory as per the Circular No. 183/15/2022-GST dated 27.12.2022". It did not say which documents, or what was lacking in them. It proposed tax of Rs. 4,47,796, interest of Rs. 3,96,299 and penalty of Rs. 44,779. On 11.09.2023 the Appellant sent a further letter by e-mail to the same address. It was again captioned as a reply to the DRC-01A, gave the same explanation and carried 44 pages of enclosures.

9. By order dated 19.12.2023, summarised in Form GST DRC-07 dated 20.12.2023, the proper officer confirmed the demand. The order records that the notice was served by RPAD and e-mail, and that the Appellant "has neither filed objections nor sought adjournment". It raised the interest from 59 to 69 months. The demand confirmed is as follows:

Act	Tax	Interest	Penalty	Total
CGST	2,23,898	2,31,734	22,390	4,78,022
SGST	2,23,898	2,31,734	22,390	4,78,022
Total	4,47,796	4,63,468	44,780	9,56,044

10. The Appellant appealed under section 107 on 07.03.2024 after making the pre-deposit of Rs. 44,780 (DRC-03, ARN AD29032412030T dated 07.03.2024). In its appeal it asked for a virtual hearing. The Appellate Authority fixed hearings on 21.04.2025, 15.07.2025 and 30.09.2025 by notices dated 15.04.2025, 05.07.2025 and 24.09.2025. The Appellant did not appear on any of these dates and did not seek an adjournment.

11. By the impugned order dated 06.10.2025 the Appellate Authority dismissed the appeal. It extracted section 16 and Circular No. 183/15/2022-GST dated 27.12.2022. It held that the credit had been disallowed because "the suppliers have not filed returns/not migrated to GST/invalid GSTIN etc.", that the Appellant had not produced the documents the Circular requires, and that the conditions of section 16(2) were not met. It recorded the Appellant's grounds

as a claim that its purchases from registered suppliers were supported by invoices.

12. On 20.11.2025 the proper officer issued notice No. ACCT/LGSTO-535/SND/2025-26/T.No-2129 under section 79(1)(c) to the Appellant's bankers, and its account with ICICI Bank was frozen. The Appellant filed this appeal on 02.05.2026 after paying Rs. 44,780 as pre-deposit on 29.04.2026 (challan No. DC2904260542537) under section 112(8). On 14.05.2026 it paid the balance of the demand under protest through Form GST DRC-03 (ARN AD290526012589O): tax of Rs. 3,58,236, interest of Rs. 4,63,468 and penalty of Rs. 44,780. The form states that the amount was paid "to get bank a/c de freezed". The whole demand now stands paid.

III. SUBMISSIONS OF THE APPELLANT

13. It was submitted by the learned Authorised Representative for the Appellant that:

(i). The difference is not credit on purchases. It is the tax on credit notes issued under section 34 for goods returned. The Appellant paid output tax in full on the original sales. Showing the tax on the credit notes as input tax credit, instead of as a reduction of output tax, made no difference to the tax paid.

(ii). The credit notes appear in Table 4I of the annual return and the resulting difference in Table 6J.

(iii). The matching mechanism in the Act was never put into operation.

(iv). Circular No. 183/15/2022-GST deals with lapses on the supplier's side and does not apply. The finding that suppliers had not filed returns is not the case in the notice.

(v). Both authorities ignored the replies and gave no reasons. The request for a virtual hearing under CBIC Instruction No. 390/Misc/3/2019-JC dated 21.08.2020 was not considered, in breach of section 75(4). Reliance was placed on *Svelte Furniture Pvt. Ltd.* and *Indochem and Polymers* (Delhi High Court).

(vi). A substantive benefit cannot be denied for a procedural lapse. Reliance was placed on *Mangalore Chemicals & Fertilizers Ltd.* (Supreme Court), *Star Engineers (I) Pvt. Ltd.* and *NRB Bearings* (Bombay High Court), *Banerji Memorial Club* (Kerala High Court) and decisions on revenue neutrality.

(vii). There was no intent to evade tax. Interest and penalty are not leviable. The demand stands paid under protest, and the bank account should be released.

IV. SUBMISSIONS OF THE RESPONDENT

14. It was submitted by the learned State Representative for the Respondent that:

(i). The Appellant ignored every opportunity before both authorities and did not appear before the Appellate Authority on three dates. It cannot now complain of a breach of natural justice. Reliance was placed on *CIT v. B.N. Bhattacharjee*, (1979) 4 SCC 121.

(ii). Input tax credit is a creature of the statute. Under section 155 the person who claims it must prove that he is eligible. Reliance was placed on *ALD Automotive (P) Ltd. v. Commercial Tax Officer*, (2019) 13 SCC 225 and *State of Karnataka v. Ecom Gill Coffee Trading (P) Ltd.* (Civil Appeal No. 230 of 2023, decided on 13.03.2023).

(iii). On the Appellant's own case, what it took was not input tax. Section 16 does not permit credit of tax on credit notes that the supplier issues himself.

(iv). Section 34 is the only way to reduce tax on goods returned, and it carries conditions. The Appellant has not shown that the goods came back, that the incidence of tax was not passed on, or that its customers reversed their credit. Revenue neutrality cannot be presumed.

V. ISSUES FOR CONSIDERATION

15. We have heard both sides and examined the record. The following issues arise:

(i). Whether the appeal is within time.

(ii). Whether the difference of Rs. 4,47,796 between the input tax credit taken in GSTR-3B (Rs. 1,16,16,320) and the credit shown in GSTR-2A (Rs. 1,11,68,524) is credit taken on purchases that the suppliers did not report, or is the tax on the credit notes that the Appellant issued to its own customers and showed as input tax credit.

(iii). Whether the demand can be sustained on the ground stated in the show cause notice, namely that the credit in GSTR-3B exceeded the credit in GSTR-2A.

(iv). Whether the Appellant's reporting of the tax on credit notes as input tax credit, instead of as a reduction of output tax, makes that amount payable.

(v). Whether the demand can be sustained on the conditions of section 34 now urged by the Revenue.

(vi). Whether interest and penalty are payable, and what relief follows.

VI. DISCUSSION AND FINDINGS

Issue (i): Whether the appeal is within time

16. Section 112(1) reads:

"(1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the order passed under

section 107 or section 108 of the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal against such order to the Appellate Tribunal within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal or the date, as may be notified by the Government, on the recommendations of the Council, for filing appeal under this Act, whichever is later."

17. By notification S.O. 4220(E) dated 17.09.2025 the Government notified 30.06.2026 as the date for filing appeals against orders communicated before 01.04.2026. The impugned order is dated 06.10.2025 and was communicated on the same day. The Appellant filed this appeal on 02.05.2026 with the pre-deposit required by section 112(8). The appeal is within time.

Issue (ii): Composition of the difference of Rs. 4,47,796

18. The annual return is a statutory return on the common portal. The Appellant filed it on 08.11.2019, nearly three years before the scrutiny notice, and has placed a copy before us. The proper officer had it before him when he scrutinised the returns. Its relevant figures are these (in Rs.):

Table of GSTR-9	CGST	SGST	IGST	Total
6A: Credit taken in GSTR-3B	7,27,606.00	7,27,606.00	1,01,67,646.00	1,16,22,858.00

Table of GSTR-9	CGST	SGST	IGST	Total
6I: Credit on inward supplies (including reverse charge)	3,89,770.70	3,89,770.70	1,01,65,234.26	1,09,44,775.66
6J: Difference (6I minus 6A)	(-) 3,37,835.30	(-) 3,37,835.30	(-) 2,411.74	(-) 6,78,082.34
4I: Tax on credit notes issued	3,37,834.70	3,37,834.70	2,412.00	6,78,081.40
8A: Credit as per GSTR-2A	4,71,943.89	4,71,943.89	1,01,64,462.25	1,11,08,350.03
8B: Credit on inward supplies from registered suppliers	3,86,887.70	3,86,887.70	1,01,64,462.26	1,09,38,237.66
4H: Tax on outward supplies before credit notes	55,66,519.78	55,66,519.78	3,76,218.13	1,15,09,257.69
9: Tax payable after credit notes	52,28,685.07	52,28,685.07	3,73,806.13	1,08,31,176.27
9: Tax paid in cash and through credit	55,66,524.00	55,66,524.00	3,76,218.00	1,15,09,266.00

19. Three facts follow from these figures. First, the credit on purchases from registered suppliers (Rs. 1,09,38,238) is less than the credit in GSTR-2A. This is so whether one takes the figure in the return (Rs. 1,11,08,350) or the

one in the notice (Rs. 1,11,68,524). No part of the credit on purchases exceeds what the suppliers reported.

20. Second, the excess of the credit taken in GSTR-3B over the credit on inward supplies (Rs. 6,78,082) equals the tax on credit notes in Table 4I (Rs. 6,78,081). The CGST and SGST part of that tax is Rs. 6,75,669. It exceeds the demand of Rs. 4,47,796. The whole amount demanded is therefore the tax on credit notes.

21. Third, Table 9 shows that the Appellant paid output tax of Rs. 55,66,524 under central tax, and the same amount under State tax. The tax payable under each head, after the credit notes, was Rs. 52,28,685. The excess payment of about Rs. 3,37,839 under each head matches the tax on the credit notes (Rs. 3,37,835). The Appellant thus paid output tax on the full value of its sales, as it says, and did not also reduce that tax by the credit notes. It took the tax on the credit notes once, as credit. The Revenue has not disputed any of these figures. We answer issue (ii) accordingly: the difference is the tax on the credit notes declared in Table 4I, not credit on purchases.

Issue (iii): Sustainability of the demand on the ground stated in the notice

22. The DRC-01A, the show cause notice and the order of the proper officer rest on one ground: that the credit in GSTR-3B exceeded the credit in GSTR-2A. For 2017-18 that comparison does not, by itself, show that credit was wrongly taken. Clause (aa) of section 16(2) reads:

"(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;"

23. This clause came into force only on 01.01.2022. Circular No. 183/15/2022-GST dated 27.12.2022 recognises that, for 2017-18 and 2018-19, a difference between the credit in GSTR-3B and the credit in GSTR-2A calls for verification of the facts. It does not treat the difference as proof of excess credit. It was held by the Hon'ble Calcutta High Court in *Suncraft Energy (P) Ltd. v. Assistant Commissioner, State Tax* (MAT No. 1218 of 2023, decided on 02.08.2023) that credit cannot be reversed only because of a mismatch with GSTR-2A, without the proper officer first examining the facts.

24. Here the facts answer the charge. As found under issue (ii), the credit on purchases is within GSTR-2A. The charge, as framed, fails on the Revenue's own record. The same error runs through every stage of this case. We therefore set out what the notice assumed, what the law required of the proper officer, what he should have verified, and where he went wrong.

(a) Basis on which the demand was raised

25. The proper officer placed two totals side by side: the credit in GSTR-3B and the credit in GSTR-2A. He treated the whole difference as credit wrongly availed. That was an assumption, not a finding. GSTR-2A shows only the inward supplies that suppliers have reported. The tax on a credit note that the Appellant issued to its own customer comes from no supplier. It can never appear in GSTR-2A. Once the Appellant entered that tax in the credit table of GSTR-3B, it was bound to show up as an excess over GSTR-2A. The comparison could tell the proper officer that the two figures differed. It could not tell him why. The notice then measured the Appellant's documents against Circular No. 183/15/2022-GST. That Circular deals with credit on purchases that suppliers failed to report. It has no bearing on credit notes issued by the registered person itself. The wrong yardstick was applied from the start, and the Appellate Authority followed it.

26. The method was flawed in its arithmetic as well. The notice compared the total credit under integrated tax, central tax and State tax together (Rs. 1,16,16,320 against Rs. 1,11,68,524). It then divided the whole difference of Rs. 4,47,796 equally between central tax and State tax. It did not compare the credit head by head. Each head has its own ledger and its own liability. A difference must be traced to the head in which it arose before it can be demanded under that head. The figure of Rs. 1,16,16,320 taken in the notice as credit in GSTR-3B is lower than Table 6A of the annual return (Rs.

1,16,22,858) by Rs. 6,538. That is the credit on reverse charge shown in Table 6C, which never appears in GSTR-2A. The difference does not affect the result.

(b) Statutory requirements in scrutiny and adjudication

27. Section 61 governs scrutiny of returns. Sub-sections (1) to (3) read:

> "(1) The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.
>
> (2) In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard.
>
> (3) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74."

28. Rule 99 of the CGST Rules prescribes the forms: ASMT-10 for the notice of discrepancy, ASMT-11 for the reply, and ASMT-12 to inform the registered person that the explanation is accepted. Scrutiny is therefore not a one-way exercise. Once the registered person explains a discrepancy, the proper officer must examine the explanation and decide whether it is satisfactory. In this case the Appellant sought for time to answer the ASMT-10 and then gave no explanation. The proper officer was therefore entitled to proceed under section 73. But the explanation came before the show cause notice and again before the order, and the duty to consider it continued at the stage of adjudication. Section 73(9) required him to determine the tax "after considering the representation", and section 75(6) required him to "set out the relevant facts and the basis of his decision".

29. The Appellant's explanation was specific and capable of being tested. It said that the difference was the tax on 110 credit notes for goods returned, that the tax on them was Rs. 6,78,081, and that the figures appeared in its annual return. Such an explanation called for verification. A bare statement that the documents were "not satisfactory" did not answer it. The explanation reached his office twice, by the e-mails of 05.06.2023 and 11.09.2023 sent to acctlvo535@gmail.com. That is the address printed on the letterhead of his own office, and his order records that he served the notice by e-mail. The annual return was in any case on the portal.

(c) Verification required before rejecting the credit notes

30. The verification fell in two stages. The first stage needed nothing from the Appellant. The records were already on the common portal:

(a) **The annual return in Form GSTR-9, filed on 08.11.2019.** Tables 6I and 8B show the credit taken on purchases (Rs. 1,09,38,238). Table 8A shows the credit available in GSTR-2A (Rs. 1,11,08,350). Comparing these tables would have shown that the credit on purchases was within GSTR-2A. Table 6J shows that the total credit taken exceeded the credit on purchases by Rs. 6,78,082. Table 4I shows that the tax on credit notes was Rs. 6,78,081. Read together, these tables explain the whole difference.

(b) **The Appellant's statements of outward supplies in Form GSTR-1 for 2017-18.** In these statements a supplier reports each credit note issued to a registered customer, with the customer's GSTIN and the original invoice against which it was issued. They would have shown whether each credit note was linked to an actual sale.

(c) **The Appellant's monthly returns in Form GSTR-3B.** These would have shown the months in which the tax on credit notes was added to input tax credit. They would also have shown whether the Appellant had reduced its output tax by the same credit notes. Had

it done both, it would have taken the same deduction twice, once as credit and once as a reduction of output tax. That was the only real risk in the Appellant's method of reporting. Table 9 of the annual return shows that the risk did not arise. The Appellant paid output tax on the full value of its sales, Rs. 55,66,524 under each of central tax and State tax, and took the deduction only once.

31. If doubts remained after the first stage, the proper officer should have called for specific records from the Appellant. The material that bears on section 34 is this:

(a) a list of the 110 credit notes, showing for each its number and date, the customer's name and GSTIN, the value and the tax, and the number and date of the original tax invoice;

(b) copies of the credit notes and of the original tax invoices;

(c) proof that the goods came back: goods-receipt notes, the stock register showing the returned goods received at the depot, and the transport documents;

(d) the customers' ledger accounts, showing that the value and the tax were credited to them. This would show that the tax went back to the customer and was not passed on to anyone else, which is the condition in the proviso to section 34(2);

(e) proof that output tax was paid on the original sales in the month of supply; and

(f) proof that each credit note was declared within the time fixed by section 34(2).

32. On that material the proper officer could have reached a finding on each credit note. Where a credit note failed, because the goods did not come back, because it was not linked to any invoice, because it was declared out of time, or because the Appellant had already reduced its output tax by it, he should have identified that credit note in the notice, stated the reason, and demanded the tax on it alone. Section 73(1) requires the notice to state the amount demanded, and section 75(7) confines the demand to the grounds in the notice. A demand framed in this way would have met the Appellant's case. A demand built on the gross difference between two totals did not.

33. If the proper officer suspected that a customer had kept its credit after returning the goods, the customers are registered persons whose returns are on the same portal. That was a matter to be verified in their own assessment. It did not justify demanding the same tax a second time from the Appellant.

(d) Errors in the proceedings of the proper officer

34. The proper officer went wrong at six points. First, he treated a difference between two totals as proof of excess credit. Second, he compared the totals across the three taxes and split the difference equally between central tax and

State tax, without tracing it to any head. Third, he did not examine the annual return that was already before him and that answered his query. Fourth, he called the Appellant's documents "not satisfactory" without saying what was lacking, and the record does not show that he called for any specific document. Fifth, he recorded that the Appellant had filed no objection, though it had twice sent its explanation to the e-mail address of his office. Even if no reply was filed in Form GST DRC-06, section 73(9) required him to consider the material before him. Sixth, the notice and the order give opposite accounts of the letter dated 09.09.2022. The notice says that documents were submitted with it and found unsatisfactory. The order says that the letter only sought time and that no documents followed. Both cannot be right, and neither identifies any document. As a result, the notice never asked the real question, namely whether the credit notes met the conditions of section 34. The demand rested on what was visible on the face of two returns, not on what the returns and the records actually showed.

35. Even at this stage the Revenue has placed no material, from the Appellant's statements of outward supplies, from its customers' returns or from any other source, to show that a single credit note was not genuine. Those records are on the common portal and within the Revenue's reach. The demand cannot be sustained on a difference that the Revenue itself never examined.

36. The Appellate Authority went further from the record. It held that the suppliers had not filed returns, had not migrated or had invalid GSTINs. The

notice alleged none of this, and the record shows none of it. It then applied the documentary requirements of Circular No. 183/15/2022-GST, which deal with lapses on the supplier's side. It did not deal with the Appellant's main ground, that the difference was the tax on credit notes. It also misread the Appellant's grounds as a claim about purchases. Section 107(12) reads:

> "(12) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision."

37. It was held by the Hon'ble Supreme Court in *Kranti Associates (P) Ltd. v. Masood Ahmed Khan*, (2010) 9 SCC 496, that a quasi-judicial authority must record reasons that show a real application of mind to the case before it. The impugned order does not meet that standard.

38. The Appellant shares the blame for this state of the record. It asked for time to answer the ASMT-10 and then did not answer it. It sent its later replies by e-mail. Rule 142(4) of the CGST Rules requires the reply to a show cause notice to be filed in Form GST DRC-06 on the common portal. It also produced only samples of its credit notes, when it could have filed the full list with the original invoices and put the matter beyond doubt. The sixteen credit notes on record, Nos. SI KS/17-18/1 to 16 dated 16.12.2017 to 30.12.2017, carry tax of Rs. 1,06,556, about one-sixth of the tax in Table 4I. Only three of them

refer to the original invoice. A credit note should identify the invoice it reduces. The Appellant did not appear before the Appellate Authority on three dates and did not seek an adjournment. Its request for a virtual hearing rested on an instruction addressed to officers of the Central tax administration, while the Appellate Authority is an officer of the State; it had to pursue that request and did not. The principle stated in *Commissioner of Income Tax (Central), Calcutta v. B.N. Bhattacharjee and Another (1979) 4 SCC 121(May 4, 1979)* that an appellant must pursue its appeal and not merely file it, holds good, and the Appellant's conduct invites it. But the Appellate Authority did not dismiss the appeal for default. It decided it on merits, and that decision is before us. We must test it on merits. Since we decide this appeal on merits, we need not examine the plea under section 75(4) further, or the decisions of the Delhi High Court cited in support of it. Issue (iii) is answered in the negative.

Issue (iv): Effect of reporting the tax on credit notes as input tax credit

39. On one point the Revenue is right. Section 2(62) defines input tax:

> "(62) "input tax" in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes— (a) the integrated goods and services tax charged on import of goods; (b)

the tax payable under the provisions of sub-sections (3) and (4) of section 9; … but does not include the tax paid under the composition levy."

40. Section 16(1), as it stood in 2017-18, reads:

"16. (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and, in the manner, specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person."

41. Both provisions speak of tax charged on a supply made to the registered person. A credit note issued by the Appellant records a reduction in the value of its own outward supply. It is not a supply made to the Appellant. The tax on it is not input tax, and section 16(1) does not allow credit of it. It was held by the Hon'ble Supreme Court in *Jayam & Co. v. Assistant Commissioner*, (2016) 15 SCC 125, that input tax credit is a concession that can be availed only on the terms on which it is granted. It was held by the Hon'ble Supreme Court in *Union of India v. Bharti Airtel Ltd.*, (2022) 4 SCC 328, that GSTR-3B is a return of self-assessment and the registered person must prepare it

correctly from its own records. The Appellant did not do so. It reported the tax in the wrong table.

42. That does not end the matter. The question is not whether the Appellant used the right table. The question is whether it owes Rs. 4,47,796 to the Government. Section 34, as it stood in 2017-18, reads:

> "34. (1) Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient a credit note containing such particulars as may be prescribed.
>
> (2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in the manner specified in this Act:

Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person."

43. Section 34 allows a supplier who issues a credit note for goods returned to reduce its tax liability, if it declares the credit note in its return within the time fixed. The Appellant carried the tax on the credit notes into its monthly GSTR-3B returns for 2017-18, though in the wrong table, and the credit notes appear in Table 4I of its annual return for that year. On the face of these returns, the credit notes were declared in the year in which they were issued. The Revenue has not alleged that any of them was declared out of time.

44. As found under issue (ii), the Appellant did not also use the credit notes to reduce its output tax. Had the Appellant reduced its output tax in the correct table, the tax it paid to the Government would have been the same. Adding the same amount to its input tax credit led to the same payment. The choice of table did not cost the Government any tax. The Revenue has not suggested otherwise.

45. It was held by the Hon'ble Supreme Court in *Mangalore Chemicals & Fertilizers Ltd. v. Deputy Commissioner of Commercial Taxes*, 1992 Supp (1) SCC 21, that substantive conditions must be distinguished from procedural ones. A substantive condition must be met. A failure to observe

a procedural condition does not defeat a benefit where the substance is satisfied.

The substance in this case appears from the Appellant's self-assessed returns and its explanation. The Appellant issued credit notes for goods returned and declared them in its returns for the same year. The Revenue has never disputed this, and nothing on record shows otherwise. What the Appellant got wrong was the table in which it reported the tax. It showed the tax as input tax credit when it should have deducted it from output tax. That is a matter of form. Placed in its correct table, the amount is a reduction of output tax under section 34. It is not credit wrongly availed. The decisions relied on by the Appellant apply the same principle. They include those holding that no demand arises where the Government has lost no tax. We need not examine them one by one.

46. The Revenue relied on section 155, which reads:

> "155. Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person."

47. Section 155 governs a claim to input tax credit. We have held that the amount is not, in substance, input tax credit. It is a reduction of output tax under section 34. That reduction rests on the Appellant's returns, which section 59 treats as its self-assessment:

"59. Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39."

48. A self-assessed return stands unless the proper officer questions it in the manner the Act provides, by scrutiny under section 61 or by a notice under section 73. The proper officer questioned only the difference from GSTR-2A. He did not identify any defect in the credit notes; he called the documents "not satisfactory" without saying why. The decisions in *ALD Automotive* and *Ecom Gill Coffee Trading* do not help the Revenue. The principle that credit must be claimed on the statute's terms is not in doubt, and we have applied it above. In *Ecom Gill Coffee Trading* the genuineness of the purchases was the very question in dispute. Here no authority has questioned the genuineness of the credit notes. Issue (iv) is answered in the negative: the error in reporting does not make the amount payable.

Issue (v): Conditions of section 34 urged by the Revenue at the appellate stage

49. The Revenue now says that the Appellant has not shown that the goods came back, that the incidence of tax was not passed on, or that its customers reversed their credit. None of this is in the notice. Section 75(7) reads:

"(7) The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no

demand shall be confirmed on the grounds other than the grounds specified in the notice."

50. It was held by the Hon'ble Supreme Court in *Commissioner of Customs v. Toyo Engineering India Ltd.*, (2006) 7 SCC 592, that the Department cannot travel beyond the show cause notice. It was held by the Hon'ble Supreme Court in *Commissioner of Central Excise v. Ballarpur Industries Ltd.*, (2007) 8 SCC 89, that the show cause notice is the foundation on which the Department has to build its case. The notice here called the Appellant's documents "not satisfactory" but did not say what was lacking. It did not call for the full set of credit notes or allege that the goods were not returned. As found under issue (iii), the proper officer never put the credit notes in issue. The Appellant cannot be faulted for not proving what it was never asked to prove. To confirm the demand on these grounds, this Tribunal would have to find facts that the Revenue never alleged and the Appellant never had notice to meet. Section 75(7) does not permit this.

51. The plea also fails on its own terms. The proviso to section 34(2), as it stood in 2017-18, barred the reduction only where the incidence of tax had been passed on to another person. A credit note for goods returned gives the customer back the value and the tax it paid. The credit notes on record show the value and the tax credited to the purchasers. Nothing on record suggests that the Appellant kept the tax and passed its burden to anyone else. The Revenue has never alleged it.

52. The Act for 2017-18 did not make the customer's reversal of credit a condition of the supplier's reduction. That idea came from section 43(1), which read:

> "43. (1) The details of every credit note relating to outward supply furnished by a registered person (hereafter in this section referred to as the "supplier") for a tax period shall, in such manner and within such time as may be prescribed, be matched— (a) with the corresponding reduction in the claim for input tax credit by the corresponding registered person (hereafter in this section referred to as the "recipient") in his valid return for the same tax period or any subsequent tax period; and (b) for duplication of claims for reduction in output tax liability."

53. The matching under section 43 was never put into operation, because the returns through which it was to work were kept in abeyance. The Finance Act, 2022 omitted the section with effect from 01.10.2022. Parliament made the recipient's reversal an express condition only by the Finance Act, 2025, which substituted the proviso to section 34(2) with effect from 01.10.2025. The substituted proviso reads:

> "Provided that no reduction in output tax liability of the supplier shall be permitted, if the—(i) input tax credit as is attributable to such a credit note, if availed, has not been reversed by the recipient, where

such recipient is a registered person; or (ii) incidence of tax on such supply has been passed on to any other person, in other cases."

54. This condition governs credit notes from 01.10.2025. It cannot be read into the law for 2017-18. It was held by the Hon'ble Supreme Court in *Padma Sundara Rao v. State of Tamil Nadu*, (2002) 3 SCC 533, that a court cannot read into a statute words that the legislature has not used. If any customer of the Appellant kept its credit after returning the goods, that is a matter for that customer's own assessment. Issue (v) is answered in the negative.

Issue (vi): Interest, penalty and consequential relief

55. Section 50(3), as substituted with retrospective effect from 01.07.2017 by the Finance Act, 2022, reads:

"(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed."

56. It was held by the Hon'ble Supreme Court in *Pratibha Processors v. Union of India*, (1996) 11 SCC 101, that interest is compensatory and is levied on an assessee who has withheld tax that was due and payable. On the findings

above, the Appellant withheld no tax. The amount was not, in substance, credit wrongly availed. No interest is payable.

57. The penalty was imposed under section 73(9), which reads:

> "(9) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order."

58. The penalty depends on tax determined as due. No tax is due. The penalty cannot survive.

59. The amount paid under protest must be refunded in accordance with law. The notice under section 79(1)(c) has no demand left to support it.

VII. ORDER

60. For these reasons, we pass the following order:

(i). The appeal is allowed.

(ii). Order-in-Appeal No. GST.AP.46/2024-25 dated 06.10.2025 of the Joint Commissioner of Commercial Taxes (Appeals), Kalaburagi, and Order No. ACCT/LGSTO-535/SND/GST SEC 73 PROCE/2023-24/T.No-4855 dated 19.12.2023 of the Assistant Commissioner of

Commercial Taxes, LGSTO-535, Sindhanur, with the summary in Form GST DRC-07 dated 20.12.2023, are set aside.

(iii). The demand of tax of Rs. 4,47,796, interest of Rs. 4,63,468 and penalty of Rs. 44,780 for July 2017 to March 2018 is set aside.

(iv). The amount paid under protest through Form GST DRC-03 dated 14.05.2026 shall be refunded in accordance with law.

(v). The notice No. ACCT/LGSTO-535/SND/2025-26/T.No-2129 dated 20.11.2025 under section 79(1)(c) shall stand withdrawn, and the Appellant's bank account shall be released if it has not already been released.

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

Pronounced in Open Tribunal on 09.10.2026.

(Prabhakaran P.M.)
Judicial Member

(Ravi Jesuraj S.)
Technical Member (State)

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