

GSTAT

State Bench Bengaluru

Court No. Court III

APL/4/BUR/2026

SANDVIK COROMANT INDIA PRIVATE LIMITED

.....Appellant

Versus

SANDVIK COROMANT INDIA PRIVATE LIMITED, DEPUTY
COMMISSIONER, DGSTO-1 & ORS.

.....Respondent

Quorum

Hon'ble Prabhakaran PM, Member(Judicial)

Hon'ble Ravi Jesuraj S, Member (Technical)

Counsel for Appellant

INPERSON

VINITHA

DAPHNY

NITHIN HEBBAR

DAPHNY STELLA D' SOUZA

Counsel for Respondent

DR. RAMYA.S, DEPUTY

COMMISSIONER

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. : ZA270171026000081H

Date of order : 14/10/2026

1.	GSTIN/Temporary ID/UIN - 29AACCS6638K1ZT	
2.	Appeal Case Reference no. - APL/4/BUR/2026	Date - 26/02/2026
3.	Name of the appellant - SANDVIK COROMANT INDIA PRIVATE LIMITED , am*****@sandvik.com , *****0290	
4.	Name of the respondent - 1. JCCT (e-Audit) , jccte-audit@ctd.ka.gov.in , 9448811330 2. SANDVIK COROMANT INDIA PRIVATE LIMITED , am*****@sandvik.com , *****0290	
5.	Order appealed against - AD290924023533Y	

	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD2911252192320	Date - 26/11/2025
6.	Personal Hearing - 14/10/2026 21/09/2026 09/09/2026 02/09/2026	
7.	Status of Order under Appeal - Modified – Order under Appeal is modified	
8.	Order in brief - In the result, the appeal is partly allowed and the impugned order is modified as follows: (i) In respect of issue related to demand of excess ITC of Rs 3,96,226/- due to difference between form GSTR 2A and form GSTR 3B: (a) the disallowance of ITC of Rs 3,96,226/- is set aside to the extent of Rs 3,44,974/- (IGST Rs 95,588/-, CGST Rs 1,24,693/- and SGST Rs 1,24,693/-) (b) the disallowance is confirmed to the extent of Rs 51,255/- (IGST Rs 2,721/-, CGST Rs 24,267/- and SGST Rs 24,267/-) (c) the Appellant shall pay the amount so confirmed, with interest under section 50(3) of the CGST Act read with rule 88B of the CGST Rules, and penalty under section 73(9) of the CGST Act 2017. (ii) In respect of issue related to Tax payable on unaccounted inward supply turnover, the demand is set aside along with interest. (iii) In respect of issue related to Levy of interest amounting to Rs. 27,530/- KGST on account of non-reversal of input tax credit on purchase return, the interest and the penalty are set aside. The tax paid on 14.03.2024 stands appropriated. (iv) In respect of issue related to Demand of tax of Rs. 99,718 on account of credit notes not reported in form GSTR-1 of the Appellant, the demand is set aside along with interest and penalty. (v) No order as to costs The appeal is disposed of in these terms.	
Summary of Order		
9.	If demand order then whether demand quantified: Yes	

Section-I

Particulars	Central tax		State/UT tax		Integrated tax		Cess		Total	
	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount
1	2	3	4	5	6	7	8	9	10	11
(a) Tax	1613900	24267	1613900	24267	113960	2721	0		3341760	51255
(b) Interest	0		0		0		0		0	0
(c) Penalty	0		0		0		0		0	0
(d) Fees	0		0		0		0		0	0
(e) Others										0
(f) Refund										0

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

Case Citation: (2026) taxcode.in 294 GSTAT

Levy of interest or late fee or fine	The 1st Appellate Authority after hearing the matter passed Order-in-Appeal dated 26.11.2025 whereby the appeal of the Appellant was set aside by brushing aside all the submission made in appeal memorandum. Regarding passing of the non-speaking order by the adjudicating authority has not been discussed nor has any finding been given. All the contention of the Appellant in the appeal has been dismissed without any sound reasoning	Appeal disposed of by modifying the order of the First Appellate Authority. (i) In respect of issue related to demand of excess ITC of Rs 3,96,226/- due to difference between form GSTR 2A and form GSTR 3B: (a) the disallowance of ITC of Rs 3,96,226/- is set aside to the extent of Rs 3,44,974/- (IGST Rs 95,588/-, CGST Rs 1,24,693/- and SGST Rs 1,24,693/-) (b) the disallowance is confirmed to the extent of Rs 51,255/- (IGST Rs 2,721/-, CGST Rs 24,267/- and SGST Rs 24,267/-) (c) the Appellant shall pay the amount so confirmed, with interest under section 50(3) of the CGST Act read with rule 88B of the CGST Rules, and penalty under section 73(9) of the CGST Act 2017. (ii) In respect of issue related to Tax payable on unaccounted inward supply turnover, the demand is set aside along with interest. (iii) In respect of issue related to Levy of interest amounting to Rs. 27,530/- KGST on account of non-reversal of input tax credit on purchase return, the interest and the penalty are set aside. The tax paid on 14.03.2024 stands appropriated. (iv) In respect of issue related to Demand of tax of Rs. 99,718 on account of credit notes not reported in form GSTR-1 of the Appellant, the demand is set aside along with interest and penalty.
--------------------------------------	---	--

Place :BENGALURU

Date : 14.10.2026

Signature

BENGALURU Prabhakaran PM

Designation : Member

Jurisdiction :Bengaluru

GOODS AND SERVICES TAX APPELLATE TRIBUNAL
BENGALURU BENCH (Division Bench: Court No. III)

PRABHAKARAN P M, Member (Judicial), RAVI JESURAJ S, Member (Technical)

APPEAL NO: APL/4/BUR/2026

[Against Order-in-Appeal No ZD29112521932O in Form GST APL-04 dated 26-11-2025]

SANDVIK COROMANT INDIA PRIVATE LIMITEDAPPELLANT

Versus

**THE COMMISSIONER OF COMMERCIAL TAXES, KARNATAKA
BENGALURURESPONDENT**

FINAL ORDER: Dated 14th October 2026

Appearance by: **Ms Daphny Stella D' Souza**, Chartered Accountant, for the Appellant
Ms Dr Ramya, Deputy Commissioner, D R for the Respondent

Per: Prabhakaran P M, Member (Judicial)

Introduction

1.1 The Appeal has been filed by Sandvik Coromant India Private Ltd., (formerly known as Sandvik Asia Private Ltd) and (hereinafter referred to as 'Appellant') against the **Order-in-Appeal No ZD29112521932O in Form GST APL-04 dated 26-11-2025** passed by Joint Commissioner of Commercial Taxes (Appeal-I), Bengaluru which upheld the adjudication order dated 29.06.2024 passed under section 73(9) of the Central Goods and Services Tax Act, 2017 (CGST Act, 2017) and Karnataka Goods and Services Tax Act, 2017 (KGST Act, 2017)

by the Deputy Commissioner of Commercial Taxes (Audit-I.6) Bengaluru. The Appeal pertains to tax period April 2019 to March 2020.

Brief facts

2.1 The Appellant is a private limited company engaged in the business of manufacture and supply of cutting tools, inserts, tungsten carbide tips, mining & construction machinery including other services related mining. The Appellant has the principal place of business in State of Karnataka and have obtained their registration under the provisions of CGST Act 2017/ KGST Act with GSTIN 29AACCS6638K1ZT.

Adjudication proceedings

3.1 An Audit was conducted at the premise of the Appellant during the month of November/December 2023 covering the period April 2019 to March 2020 by the Deputy Commissioner of Commercial Taxes (Audit-1.6), Bengaluru under the provisions of Sec. 65 of the CGST Act & KGST Act r/w Sec. 4 and 20 of the Integrated Goods & Service Act (IGST Act) and relevant Rules.

3.2 After the conclusion of the audit, audit observation bearing No. DCCT(A) -1.6/2023-24 T.No.780 dated 05.12.2023 was issued containing Audit Findings 1 to 4. The Appellant vide letter dated 22.01.2024 submitted reply to the said audit observations. Thereafter, GST Authority vide reference no. DCCT (A) -1.6/2023-24 dated 23.01.2024 issued additional audit observations which consists of Audit Findings 5 to 7. The Appellant vide letter dated 30.01.2024 submitted reply to the additional Audit findings. Subsequently one more audit observation was issued vide reference no. DCCT(A) -1.6/2023-24 T.No.906 dated 30.01.2024, wherein the Appellant was directed to furnish the reply regarding excess ITC availment of Rs.1,26,25,048.00 in the year 2019-20 pertaining to year 2018-19. The Appellant submitted reply vide letter dated 06.02.2024.

3.3 Subsequently, Audit Report for the period April 2019 to March 2020 was issued on 15.02.2024, under Section 65(6) of the KGST/CGST Act which contains 8 Audit observations, out of which 4 audit observations were dropped at the Audit stage itself. The details are as follows:

Audit Observation No.	Details of Audit Observation	GST Amount (in Rs)	Remarks
1.a	Excess input tax claimed & utilised.	1,26,25,048	Reply accepted & dropped
1.b	Difference ITC between GSTR2A & GSTRB	6,47,924	Reply not accepted
2	GST payable on unaccounted Inward Supply.	55,18,092	Reply not accepted
3.	Non reversable Input Tax Credit on purchase return.	1,04,181	Reply not accepted
4.	Difference between ITC claimed in GSTR3B & GSTR2A	53,75,717	Reply accepted & dropped
5.	Short paid tax	99,718	Reply not accepted
6.	Disallowed ISD Credit due to non-submission of documents.	53,72,717	Reply accepted & dropped
7.	Disallowed IGST Credit due to non-submission of documents.	1,33,32,089	Reply accepted & dropped

3.4 The amount of tax, interest, penalty payable based on the above Audit observations was quantified and DRC 01A as amended was issued vide No. DCCT (A)-1.6/DGSTO-1/2022-23 dated 18.03.2024.

3.5 The Appellant submitted detailed reply to the intimation. The Appellant had made the payment of Rs.1,04,181-00 through DRC-03 dated 14.03.2024 towards discharge of the liability in respect of Audit observation No. 3 above.

3.6 Subsequently, a Show-cause Notice was issued on 3.04.2024 under Section 73 of the Act read with Section 75, Section 122, Section 50 of the SGST Act, 2017 read with Rule 142

of the KGST Rules, 2017 read with Section 6 of CGST Act, 2017 read with Section 4 and 20 of IGST Act, 2017, demanding Tax of Rs 36,97,638/- (IGST of Rs 1,14,376/-, CGST of Rs 17,91,631 and KGST of Rs 17,91,631/-) along with interest and penalty. This includes the tax of Rs 1,04,180/- which was paid on 14.03.2024, before the SCN was issued.

	Particulars	IGST (in Rs)	CGST (in Rs)	KGST (in Rs)	Total payable
1	Excess input tax claimed & utilized	98308	274808	274808	647924
2	Tax Payable on unaccounted inward supply turnover	0	1422758	1422758	2845516
3	Non-reversible input tax credit on purchase Return	416	51882	51882	104180
4	Short paid Tax	15652	42183	42183	100018
	Total	114376	1791631	1791631	3697638

3.7 The Appellant filed a reply to the Show cause Notice vide letter dt. 29.04.2024 along with reconciliation statements and supporting documents denying every allegation made in the Notice on the strength of documentary evidences and requested the Adjudicating Authority to drop the proposed demand of tax along with interest and penalty mentioned therein. A personal hearing was also availed by the Appellant on 10.06.2024.

3.8 The Adjudicating Authority passed the order under Sec. 73(9) of the CGST / KGST Act on 29.06.2024 after making the following allowances and adjustments.

3.9 In respect of item no. 1: 'Excess input tax claimed & utilised' the request of the Appellant was accepted in respect of one invoice (invoice No.01/2019 dated 06.01.2019 issued by M/s Thiruvani Sreedharan) since the same was reflected in GSTR 2A. ITC of Rs 2,51,698/- (CGST of 1,25,849/- and SGST of Rs 1,25,849/-) was allowed on it. The remaining ITC of Rs.3,96,225-00 (IGST Rs.98,307-00, CGST Rs.1,48,959-00 & SGST Rs. 1,48,959-00) was considered as not reflected in Form GSTR-2A, confirmed as ITC excess availed.

3.10 In respect of item No. 2: Tax Payable on unaccounted inward supply turnover' is concerned the entire demand was confirmed.

3.11 In respect of item No.3: 'Non-Reversible Input Tax Credit on purchase Return' - The Appellant had accepted the Audit observation and reversed ITC of Rs.1,04,180-00 (IGST Rs.416-00, CGST Rs.51,882-00 & SGST Rs.51,882-00) through DRC-03 vide ARN No.AD2903240229135, dated 14-03-2024 before the issue of SCN. As interest and penalty were not paid the entire demand was confirmed in the order.

3.12 Item No. 4: 'short paid tax' is concerned the proposed demand was confirmed. Though the total of the demand of IGST Rs.15,652/-, CGST Rs.42,183/- and KGST Rs.42,183/- was Rs 1,00,018/-, the total amount in the order was shown as Rs 99,718/-.

3.13 Accordingly, the order was passed confirming a demand of tax of IGST of Rs 1,13,960/-, CGST of Rs 16,13,900 /- and SGST of Rs 16,13,900/- (Rs 33,41,760/-), Interest of IGST of Rs 12,034/-, CGST of Rs 12,26,443/- and SGST of Rs 13,39,406/- (Rs 25,77,883 /-) and penalty of IGST of Rs 1,565/-, CGST of Rs 1,46,494/- and SGST of Rs 1,66,578/- (Rs 3,14,637/-). A summary of the order in Form DRC 07 also issued on 29.06.2024.

3.14 The order does not refer to the Appellant's other submissions, to the reconciliation statements or to the supporting documents.

3.15 Aggrieved with that part of the order of the Adjudicating Authority, that went against it, the Appellant filed an Appeal before the First Appellate Authority under Sec. 107 of the Act on 26.09.2024.

3.16 A detailed submission was made by the Appellant before the First Appellate Authority and also availed the personal hearing. Following issues were raised before the First Appellate Authority.

- (i) Adjudicating Authority had not considered the documentary evidence submitted in support of the submissions made by the Appellant therefore, the order was non-speaking.
- (ii) The demand of Rs 3,96,226/- has been raised after issuing the Audit Report under Sec. 65(6) of the Act which therefore was not sustainable.
- (iii) The demand based on ITC availed in Form GSTR 3B in comparison with GSTR-2A which results in alleged wrong availment and utilisation of excess Input Tax credit was not sustainable for the reason that no such facilities were available during the impugned period to examine or ascertain the availability of ITC under GSTR 2A. The Appellant also relied on judicial decisions especially on points related to GSTR 3B vs. GSTR 2A.
- (iv) No demand under output tax could have been fasten on the assessee based on the details of the E-way bill transactions as compared to purchase register without actually examine the nature of receipt of supply and treatment of goods received.

3.17 Supporting documents like GSTR 2A downloads, reconciliation statements, screen shots of purchase ledger etc running to 20 exhibits that were submitted during the Adjudication proceedings were filed again before the Appellate authority.

3.18 The First Appellate Authority vide the impugned order upheld the Adjudication order and dismissed the appeal filed by the Appellant on the following grounds.

- (i) The contention of the Appellant that the impugned order passed by the First Appellate Authority was non-speaking was found to be untenable for the reason that the Adjudicating Authority has recorded findings in its order on each of the contentions raised by the Appellant in the reply filed.

- (ii) The Department had every liberty to raise additional issues that were not considered in the Audit Report under Sec. 65 of the CGST Act, 2017 because the issues framed during the Audit is only preliminary findings and additional findings can be arrived at while examining reply provided by the parties.
- (iii) During the Audit it was observed that the Appellant had claimed excess ITC under the IGST Act, 2017 amounting to Rs 98,307/-, under CGST & SGST Rs 1,48,957/- each in the Returns filed under GSTR3B when compared to the amount of ITC appeared in GSTR2A. In terms of Section 16(2)(c) of KGST/CGST Act r/w Rule 36 of KGST / CGST Rules, ITC not appeared in GSTR2A will not be available as eligible credit in the hands of receiver. Under the circumstances the Revenue is justified in holding that there is excess claim of ITC in the Returns filed in GSTR3B when compared to the actual amount of ITC available as per GSTR2A.
- (iv) As regards the demand of tax on unaccounted Inward Supply turnover is concerned the appropriate tax had rightly levied. It was observed in the original order that GST no., invoice No., taxable value, in respect of certain inward supply invoices were not accounted in the books of account; therefore, such transactions are “deemed sales” as per Section 35(6) of the CGST Act; therefore, the Adjudicating authority had treated said transaction as deemed sale after adding gross profit of 10% to arrive at the value of corresponding outward supply.
- (v) It was also observed in the Order that the Appellant had issued Credit Note in respect of sales returns in sales register, but the same is not reported in GSTR1; the Appellant contended that the issue was never raised in Audit Report; and,

finding that no other submission had been made on the shortfall, the Appellate Authority rejected the contention

3.19 The Appellant is before us against the above impugned Order.

4.1 Ms Daphny Stella D'Souza, Chartered Accountant the Ld Authorised Representative for the Appellant appeared before us and made a detailed submission and also filed a written submission on 19th September 2026.

4.2 On the first regarding the demand of excess ITC of Rs. 3,96,226.05 due to difference between form GSTR 2A and form GSTR 3B, it was submitted by the Ld AR that the reconciliation statement submitted by them along with the supporting documents demonstrated before the Adjudicating authority and again before the First Appellate Authority; the true difference between Form GSTR-2A and Form GSTR-3B, was only Rs. 51,253.56 and not Rs 3,96,226/- as held. It was further submitted that the Appellant was willing to remit Rs 51,253.56 if so directed, although during the relevant period there was no requirement to match the ITC available as per Form GSTR 2A before taking the ITC in Form GSTR 3B.

4.3 Similarly on second issue, tax payable on unaccounted inward supply turnover, it was submitted by the Ld AR that the demand of tax was confirmed by the First Appellate Authority on the finding that the Appellant had failed to account for 46 e-way bills in its purchases register; even though the reconciliation statement with supporting documents like purchase register etc were submitted before Adjudicating authority and once again before the First appellate Authority, no such reference made in the original Order or in the impugned order.

It was further submitted that an addition to the turnover of the Appellant was arbitrary and the levy of such addition was held to be not sustainable and relied on the Judgement of Madras High Court in the case of Jayalakshmi Oil Mills vs State of Tamil Nadu 2012 (2) TMI 450, Sri

Ramu Furniture company vs State of Tamilnadu 2011 (4) TMI 1239 and S V Cycles Stores vs Commercial Tax Officer, Vaniyambadi 2011 (6) TMI.

4.4 On the third issue it was submitted by the Ld AR that the demand of interest of SGST amounting to Rs. 27,530/- for the period from 21.03.2021 till 14.03.2024 on the remittances of an amount of Rs. 1,04,180/- made by the Appellant in Form GST DRC 03 on 14.03.2024 was not correct as they had remitted taxes by way of utilization of input tax credit. It was further submitted that they had sufficient balance in the Electronic Credit Ledger till they made the payment and no interest was therefore payable.

4.5 On the fourth issue it was submitted by the Ld AR that the demand Rs 99,718/- confirmed on account of the Credit note of Rs 11,77,942/- issued by the Appellant for sales returns and recorded in the sales register were not reported in the Form GSTR1 of the Appellant is legally incorrect; It was submitted that credit note reduces the liability of the Appellant and any demand of tax based on Credit Note issued by the Appellant, is not valid.

5.1 Dr Ramya Deputy Commissioner, the Ld Department Representative, appeared and defended the impugned order and submits that the impugned order passed by the First Appellate Authority is factually correct and legally valid and prayed for dismissal of the Appeal.

5.2 A written submission was filed on 7th October 2026 electronically and contested the Grounds of Appeal filed by the Appellant. The contents of the written submission in brief are captured for analysis:

- (i) that the Order-in-Original dated 29.06.2024 and the Order-in-Appeal dated 26.11.2025 are concurrent, reasoned and speaking orders, passed after full opportunity of hearing, and disclose no error of fact or law;

- (ii) that the show-cause notice and the adjudication were well within jurisdiction, Section 65(7) read with Section 73 permitting action on every discrepancy detected in audit, unconfined by the first audit intimation;
- (iii) that the input-tax-credit heads were rightly confirmed under Section 16(2)(c) read with Section 155, the Appellant having failed to prove payment of tax to the Government or to comply with Circular 183/15/2022-GST;
- (iv) that the demand on unaccounted inward supply was rightly raised under Section 35(6) read with Rule 56, the Appellant having failed to reconcile the 46 e-way bills with its books;
- (v) that the short-payment of Rs. 99,718 was rightly confirmed under Section 34 read with Rule 59;
- (vi) that interest under Section 50 and penalty under Section 73(9) are statutory and consequential and have been correctly quantified; and
- (vii) Reliance was placed on ALD Automotive Pvt. Ltd. v. Commercial Tax Officer, (2019) 13 SCC 225, State of Karnataka v. Ecom Gill Coffee Trading (P) Ltd., 2023 INSC 212 : (2023) 18 SCC 809 and ; Union of India v. Bharti Airtel Ltd., (2022) 4 SCC 328.

Findings and decision:

6.1 We have heard both the parties and perused the SCN, adjudication order, impugned order, appeal papers, written submission with annexures and exhibits and applied our mind. The following issues arise for decision:

- (i) Whether the Appellant availed excess input tax credit of Rs. 3,96,226 in Form GSTR 3B for the year 2019-20 as against the Input tax credit auto populated in Form GSTR-2A for the period?

- (ii) Whether the Appellant failed to account inward supplies received via 46 nos E-way bills in its purchases register? If so whether tax could be demanded under section 35(6) of the CGST Act on a value arrived at by adding a gross profit of 10%?
- (iii) Whether levy of interest amounting to Rs. 27,530/- under KGST Act is leviable on the input tax credit reversed on account of the purchase return?
- (iv) Whether the appellant is liable to pay tax on account of credit notes issued towards sales return but not reported in Form GSTR-1 for the relevant period?
- (v) Whether the interest levied and penalty imposed are sustainable?

7.1 The impugned order was passed without examining the documents submitted by the Appellant along with their Appeal. The Order tried to answer all the legal arguments put forth by the Appellants relying on judicial decisions. The submissions made by the Ld DR and written submissions filed thereafter for the Respondent also of no different. On the contrary we found that the demand confirmed based on above four issues are based on facts. Thus, it is imperative to examine the submissions made by the Ld AR based on the documents they have relies.

(i) Demand of excess ITC of Rs 3,96,226/- due to difference between form GSTR 2A and form GSTR 3B

7.2 It was submitted by the the Ld AR that they had provided the reconciliation statement before the Authorities demonstrating that the actual difference between form GST 2A & GSTR 3B for the year 2019-20 on a proper accounting of the entries, was only Rs 51,253.56/-. The same were produced before us also.

7.3 We have verified this submission based on the show-cause notice, Order in Original and the impugned order along with the copy of the documents submitted during this proceeding.

7.4 Para 4.1 of the show-cause notice proposed a demand of excess claim of ITC of Rs 6,47,924/- (IGST Rs 98308/-, CGST Rs 2,74,808/- & SGST Rs 2,74,808/-). It further lists 15 invoices against which ITC was availed by the Appellant but, alleged that the same was not available in GSTR2A. The suppliers are:

- (i) M/s Sandvik Asia Pvt Ltd., (2 Invoices from GSTIN: 27AACCS6638K1ZX)
- (ii) M/s Sandvik Asia Pvt Ltd., (7 Invoices from GSTIN: 36AACCS6638K1ZY)
- (iii) M/s Golden Palms Hotel & Spa (A Unit of World Resort Ltd) (1 Invoice)
- (iv) M/s Reliance Communications Ltd., (1Invoice)
- (v) M/s Radiant Guard Services Pvt Ltd., (1Invoice)
- (vi) M/s Country Inn & Suites (1Invoice)
- (vii) M/s Thiruveni Sreedharan (1 Invoice)
- (viii) M/s Verizon Communications India (1 Invoice)

7.5 Out of which the invoice pertaining to M/s Thiruveni Sreedharan was found to be available in GSTR 2A during the personal hearing conducted at adjudication level. Therefore, the remaining 14 invoices according to the Adjudicating Officer was not available in GSTR 2A and disallowed the same, which total to Rs 3,96,226.05. It copied by the First Appellate Authority also. The Appellant has produced the documents relating to the above issues before us.

7.6 Invoices pertaining to supply received from M/s Golden Palms Hotel & Spa (A Unit of World Resort Ltd) (GSTIN 29AAACW1584E1Z9): In respect of the mismatch of ITC in the case of the invoice received from the vendor M/s Golden Palms Hotel & Spa (A Unit of World Resort Ltd), we have gone through the following documents –

- (i) Copy of invoices raised by M/s Golden Palms Hotel & Spa (A Unit of World Resort Ltd).,

- (ii) Copy of Email correspondence between the Appellant and M/s Golden Palms Hotel & Spa (A Unit of World Resort Ltd) establishing clubbing of invoices and issue of summary invoice,
- (iii) Copy of Form GSTR2A extract for the year 2019-20 for M/s Golden Palms Hotel & Spa (A Unit of World Resort Ltd),

7.7 The Invoice No. 19022974 dt. 09.02.2019 as mentioned in the show-cause notice issued by M/s Golden Palms Hotel & Spa for a value of Rs 12,88,200/- with CGST of Rs 1,24,693/- & SGST of Rs 1,24,693/- was disputed as not available in GSTR 2A. The Ld AR appeared and submitted that the Invoice number No. 19022974 dt. 09.02.2019 as mentioned in the books was a clerical error; it was actually the summary invoice number or consolidated statement issued by the supplier in respect of 57 invoices issued from 1st January 2019 to 31st January 2019; those 57 invoices are included in the 78 line items appearing in GSTR 2A of the Appellant for the month of January 2019 filed in April 2019. The Ld AR took us through the Exhibit no. 18 of the Appeal paper book which contains the supporting documents.

7.8 We have gone through the above documents and observed that the Appellant had received invoices from M/s Golden Palms Hotel & Spa (A Unit of World Resort Ltd) (GSTIN 29AAACW1584E1Z9) for having received various services under the description of Rooms charges, Meal plan charges, F&B charges, Hiring Equipment, Gust Transportation charges, others, Beverages, and service charges. These services were received in the month of January 2019. Out of which, it was submitted that they had availed ITC of Rs 1,80,348/- each under CGST and SGST head, only on Rooms charges of Rs 12,88,200/-. We have also analysed the Tax Summary note no. 19022974 dt. 09.02.2019 and the list of 58 numbers of sub invoices vis-a-vis the extract of GSTR 2A for the month of January 2019 which included in to 78 line items. As per the record the invoices issued by M/s Golden Palms Hotel & Spa (A Unit of World Resort Ltd) (GSTIN 29AAACW1584E1Z9) for the month of January 2019 was reported

in their GSTR-1 of April 2019. This is available in the GSTR 2A statement downloaded now for the month of April 2019. We are convinced that 58 invoices part of the Tax Summary note no. 19022974 dt. 09.02.2019 for the individual invoices issued during the month of January 2019 filed by M/s Golden Palms Hotel & Spa (A Unit of World Resort Ltd) (GSTIN 29AAACW1584E1Z9) in GSTR 1 of April 2019. There was no issue raised by the Authorities on the eligibility of the ITC availed other than non-availability in GSTR 2A. Therefore, ITC of Rs 1,24,693/- each under CGST & SGST attributable to the above services and invoices received from M/s Golden Palms Hotel & Spa (A Unit of World Resort Ltd) (GSTIN 29AAACW1584E1Z9) is available to the Appellant.

7.9 Invoices pertaining to supply received from Sandvik Asia Pvt Ltd (GSTIN: 27AACCS6638K1ZX): The screen shot provided by the Appellant in respect of GSTR2A as discussed above clearly indicate the invoice number Z700204 dt. 09.02.2018 with Integrated Tax of Rs 42,042.61. This invoice pertaining to the same supplier M/s Sandvik Asia Pvt Ltd. Similarly, in the case of Invoice No. Z700144 the IGST involved in this case is Rs 16,266/-.

7.10 The other invoice under consideration is No. 2001136-0016018/007 dt.22.05.2019 (wrongly mentioned in audit as dtd 06.03.2019) issued by M/s Sandvik Asia Pvt Ltd. C/o Expeditors Intl (India) Pvt Ltd (GSTIN: 36AACCS6638K1ZY), pertaining to import of goods with total IGST of Rs 37,279/-. The activity being import of goods for which copy of bills of entry also submitted for verification. There was no utility available for the relevant period to auto populate IGST paid on import of goods in GSTR 2A. The importers nonetheless entitled to take ITC of IGST paid on import of goods based on the Bills of entry subject to satisfaction of other conditions. The only observation raised by the Authority is non availability of entries in GSTR 2A, which is established as per the documents submitted. The contention of the respondent that the Appellant are not eligible to avail the ITC pertaining to Invoice No. 2001136 therefore fails. The Appellant is eligible to avail this credit.

7.11 No documents are provided in respect of remaining 4 invoices [M/s Reliance Communications Ltd., (1Invoice), M/s Radiant Guard Services Pvt Ltd., (1Invoice), M/s Country Inn & Suites (1Invoice) and M/s Verizon Communications India (1 Invoice)] to prove that the suppliers were indeed paid tax to the Government. In Union of India v. Bharti Airtel Ltd., (2022) 4 SCC 328, that the registered person must assess its credit from its own records, Form GSTR-2A being only a facilitator. Therefore, we are not inclined to go with the contention of the Respondent that the Appellant should match the auto populated data in Form GSTR2A before availing the ITC in Form GSTR 3B before the introduction of Section 16(2)(aa) of the Act which inserted by FA 2021, w.e.f 01.01.2022.

7.12 Section 16(2)(c) of the CGST Act, as upheld by the Hon'ble Apex Court in Bhandari Scrap Traders v. Union of India (SLP(C) No. 23931 of 2026), however, makes it a condition of credit that *"the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply"*. Section 155 places the burden of proving eligibility to credit on the person who claims it. It was held by the Hon'ble Supreme Court in State of Karnataka v. Ecom Gill Coffee Trading (P) Ltd., (2023) 18 SCC 809, that a dealer claiming input tax credit must prove the genuineness of the transaction and the actual payment of tax, and that production of invoices alone is not enough. Circular No. 183/15/2022-GST dated 27.12.2022, relied on by the Respondent, sets out the certificates by which a recipient may establish payment of tax by the supplier where the supply is not reflected in Form GSTR-2A. Though the details of these four invoices were put to the Appellant at every stage, it has produced no such certificate or other proof. The burden is not discharged. Credit of Rs 51,255/- (IGST Rs 2,721/-, CGST Rs 24,267/- and SGST Rs 24,267/-) on these four invoices is disallowed.

7.13 The decisions relied on by the Respondent support this course. It was held by the Hon'ble Supreme Court in ALD Automotive (P) Ltd. v. Commercial Tax Officer, (2019) 13

SCC 225, that input tax credit is a concession that can be claimed only on the terms of the statute; and in Union of India v. Bharti Airtel Ltd., (2022) 4 SCC 328, (supra). Credit is therefore allowed where the Appellant's records and documents prove all the conditions of Section 16, and refused where they do not.

7.14 Consequently, the rejection of ITC of Rs 3,96,226.53 is set aside to the extent of Rs 3,44,974/- (IGST of Rs 95,588, CGST of Rs 1,24,693 and SGST of Rs 1,24,693) along with interest and penalty on that amount.

7.15 The first issue is answered accordingly.

(ii) Tax payable on unaccounted inward supply turnover

7.16 The Appellant submits that the demand of tax Rs. 28,45,515.00 (CGST Rs. 14,22,758.00 and SGST/KGST Rs. 14,22,758.00) was confirmed by the First Appellate Authority on the finding that the Appellant had failed to account for 46 e-way bills in its purchases register. It is further submitted that this alleged unaccounted inward supply was deemed as 'sale' by an addition of 10% gross profit by invoking Section 35(6) of the CGST Act, 2017.

7.17 The Ld AR submits that the E-way bills relied upon are towards transportation of imported goods from Customs warehouse to the Appellant premises. All books of accounts are maintained by the Appellant and reconciliation and accounting documents were placed before the Adjudicating Authority itself and thereafter before the First Appellate Authority. The statement is part of the Appeal paper as Exhibit 19. It is also submitted that availment of input tax is in accordance with the provisions of Section 16 of the CGST Act, 2017 and is availed in the year 2019-20 and in 2020-21 (in the returns filed for September 2020).

7.18 We have gone through para 4.2 of the SCN dated 29.06.2026, page 87 to 91 in the adjudication order, issue 3 of the impugned order and replies and appeal filed by the Appellant

as re-produced as extracts in the respective orders. We find that at no point of the Adjudication or Appellate stage the Authorities had examined the reconciliation statement submitted by the Appellant. The reconciliation statement contains the headings -EWB No as per SCN/ EWB dt/ From place/ To place/ HSN Desc/ HSN/ Asses Value/ Tax value/ Nature of Supply/ Supplier Invoice No/ date/ Accounting Doc no./ Accounting year. Screen shot of accounting entries in the Ledger also was made available repeatedly at every stage. Had the authorities taken time to examine the 'Accounting Doc no' the issue would have been dropped at the reply stage, if satisfied. Once the Proper officer receives the reconciliation statement along with screen shot of accounting entries in the Ledger a proper examination should have under taken. If it was found that 'Accounting Doc no' was not correct or not to the satisfaction of the Officer, such additional documents could have called for from the Appellant. On that material the proper officer could have reached a finding on each E-way bill entries under dispute. The demand was confirmed and thereafter upheld without any rhyme or reason to reject that statement and supporting screen shots of purchase ledger.

7.19 GST Law is very clear that 'once the registered person explains a discrepancy, the proper officer must examine the explanation and decide whether it is satisfactory'. 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". The Appellant's explanation was specific and capable of being tested.

7.20 The Appellant in its appeal before the First appellate authority submitted as follows:

The Appellant had submitted during personal hearing before Adjudicating Authority a detailed reconciliation of the 46 E-way bills with the purchase register to demonstrate that goods covered therein are accounted. However, Adjudicating Authority has not paid any attention to the said documents and confirmed the demand.

The Appellant would like place said statement in this appeal and same is annexed hereto as Exhibit -17.

7.21 The First Appellate Authority, relied on a judgment of the Hon'ble Supreme Court in the case of M/s. Nathu Ram Ramesh Kumar Vs. Commissioner of Delhi Value Added Tax [Civil Appeal Nos. 4465-4468 of 2014 arising out of SLP(C) Nos.22912-22915 of 2009] dated 09.04.2014 for its support in making deemed sales. Since the Judgement was under Delhi Value Added Tax Act which provided for computing deemed sale where books of accounts are not maintained to the satisfaction of the officer and sales under booked then 10% addition can be made to determine the deemed value of sale. There is no 'deemed sale' concept as discussed in the impugned judgement under the GST Act. The provisions of Section 35(6) of the Act cannot be equated with the deemed sale provisions under VAT laws. Therefore, the decision is distinguishable.

7.22 While rejecting the appeal the First Appellate Authority held:

Under the circumstances, the Respondent is justified in holding that there is unaccounted inward supplies in the purchase register maintained by the appellant and has rightly estimated the deemed sales and has rightly levied tax thereon along with consequential penalty and interest under Section 73(9) and 50 of the CGST Act, 2017 respectively.

7.23 This Tribunal time and again relied on the decision of the Hon'ble Supreme Court in Kranti Associates (P) Ltd. v. Masood Ahmed Khan, (2010) 9 SCC 496, where it was held 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.

7.24 Recently the Hon'ble Supreme Court in case of M/s ASP Traders vs State of Uttar Pradesh and Ors (2026) 2 SCC 641 while considering issues under CGST Act while relying on

Kranti Associates has reiterated the need of passing of reasoned order. The relevant part of the decision reads:

18. The principles of natural justice mandate that when a taxpayer submits a response to a show cause notice, the adjudicating authority is required to consider such response and render a reasoned, speaking order. This is not a mere procedural formality, but a substantive safeguard ensuring fairness in quasi-judicial proceedings. The right to appeal under Section 107 of the CGST Act, 2017, is predicated upon the existence of a formal adjudication. An appeal can lie only against an 'order', and in the absence of a reasoned order passed under Section 129(3) of the Act, the taxpayer is effectively deprived of the statutory remedy of appeal. Such a deprivation undermines the foundational principles of fairness, due process, and access to justice, rendering the right of appeal illusory or nugatory. It is now settled law that failure to issue a speaking order in response to a show cause notice creates a legal vacuum. Any consequential action including imposition of tax or penalty, would then be unsupported by authority of law, thereby potentially violating Article 265 of the Constitution of India, which prohibits the levy or collection of tax except by authority of law.

18.1. In this context, useful guidance may be drawn from the decision in *M/s. Kranti Associates (P) Ltd & Anr. v. Masood Ahmed Khan & Ors.*⁶, wherein, this Court emphasized that fairness, transparency, and accountability are inseparable from the duty to provide reasons. The Court held that failure to furnish reasons violates the principles of natural justice and renders the right of appeal or judicial review illusory. In paragraph 51 of the judgment, the Court distilled the following key principles:

"a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

b. A quasi-judicial authority must record reasons in support of its conclusions.

c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(2010) 9 SCC 496 : (2010) 3 SCC (Civ) 852 : 2010 SCC OnLine SC 987 at page 504

d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

- g. Reasons facilitate the process of judicial review by superior Courts.*
- h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.*
- i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.*
- j. Insistence on reason is a requirement for both judicial accountability and transparency.*
- k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.*
- l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.*
- m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).*
- n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".*
- o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".*

7.25 The impugned order upholding the demand on this issue could have set aside at this point, on this ground alone. We nevertheless examined the following documents:

- (i) Reconciliation statement 'statement of E-way bills linked to the Purchase Register maintained for the period 2019-20 and 2020-21.: Linked the 46 E way bills to the document entry in the purchase register
- (ii) Reconciliation statement 'Purchase Register for the year 2019-20 and 2020-21: Linked the Invoice number - the Accounting entry – E-way bill under dispute
- (iii) Screen shot – Display document -data entry view: Provides the entry made in the Purchase Ledger. The screen view could be linked to the invoice numbers which is already recorded in the above statement that linked to the E-way bill. This statement also indicates the amount of IGST availed, though that is not relevant here.

7.26 These documents show that the goods moved under each of the 46 E-way bills are recorded in the Appellant's books, each e-way bill being traced to an invoice and an accounting entry.

7.27 Sub-section (6) of Section 35 of the CGST Act reads:

"Subject to the provisions of clause (b) of sub-section (5) of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such registered person and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of such tax."

7.28 The section applies only where the goods are not accounted for. In this case as discussed above the goods transported are accounted. The second limb of the issue, the addition of 10% gross profit, therefore does not arise, and it is found not necessary to consider the decisions of the Hon'ble Madras High Court cited by the Appellant.

7.29 On this account no demand survives. The demand of Rs 28,45,515.00 (CGST Rs. 14,22,758.00 and SGST/KGST Rs. 14,22,758.00) is set aside along with interest and penalty.

(iii) Levy of interest amounting to Rs. 27,530/- SGST (KGST) on account of reversal of input tax credit on purchase return

7.30 It was the case of the Revenue, on verification of Form GSTR-2A and inward supply register, that in one case the Appellant had not reversed the claim of input tax credit in Form GSTR-3B on account of the credit note received from the vendor. Accordingly, ITC Rs.1,04,180-00 (IGST Rs.416/-, CGST Rs.51,882/- & KGST Rs.51,882/-) as per relevant Sections of the Acts along with interest at 18% from 21st March 2021 as per Section 50 and penalty u/s 122(2) a of the SGST Act, 2017 read with relevant provisions of the CGST Act, 2017 and IGST Act, 2017 was demanded and confirmed. The Appellant had made the payment of Rs.1,04,181-00 through DRC-03 dated 14-03-2024. The Appellant had not discharged interest under any head claiming that they had sufficient balance in Electronic credit ledger. However, only SGST interest of Rs.27,530-00 and penalty of Rs.5,188-00, was demanded and confirmed.

7.31 It was submitted that the Ld AR that they had maintained sufficient balance of ITC in Electronic credit ledger and therefore no interest was payable as per Section 50 of the Act. The extract of Electronic Credit Ledger from 01.04.2019 till date of payment is also produced as Exhibit -20 to the Appeal papers.

7.32 We have examined the issue and referred to the statement of Electronic credit ledger for the period April 2019 to March 2024. The Interest was confirmed only under SGST and not under CGST or KGST, the reason for which was not mentioned in the Adjudication order or the impugned order.

7.33 Section 50 of the CGST Act got amended multiple times in the past. First proviso to Section 50 of the CGST Act substituted vide Section 112 of The Finance Act, 2021 (No. 13 of 2021) dated 28.03.2021 retrospectively w.e.f. 01.07.2017. Sub-section (3) was Substituted vide Sec 111 of The Finance Act, 2022 (No. 06 of 2022) retrospectively w.e.f. 01.07.2017. This substitution was notified through Notification No. 9/2022 - CT dated 05.07.2022. The words “or section 74A” were added later, by the Finance (No. 2) Act, 2024. The Section 50 as it stands today reads:

Section 50. Interest on delayed payment of tax.- (1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council:

Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 or section 74A in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

(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 percent 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.

[Emphasis in bold]

7.34 The proviso to Section 50 confines the levy of interest on delay in payment of tax to the extent such tax paid by debiting the electronic cash ledger. There will not be any interest if the tax is paid by debiting the electronic credit ledger. The proviso however would be applicable subject to the following conditions:

- (i) tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date
- (ii) the Return should be filed in accordance with the provisions of section 39
- (iii) not applicable if such return is furnished after commencement of any proceedings under section 73 or section 74 or section 74A in respect of the said period

7.35 The proviso to Section 50 of the Act will be applicable only in respect of delay in remittance of tax on account of delay in filing Return under Section 39 of the Act. In the present case the delay in payment of tax was not due to delay in filing the Return but on credit not reversed. The proviso therefore does not apply, and the matter falls under section 50(3).

7.36 Subsection (3) to Section 50 provides that 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 percent as notified by the Government.

7.37 Sub Rule (3) of Rule 88B of the CGST 2017 inserted by Notification No. 14/2022-Central Tax dated 05.07.2022, prescribes the manner of calculating this interest further gives relaxation by explaining the term '*input tax credit wrongly availed*'. It reads:

88B Manner of calculating interest on delayed payment of tax

(1).....

(3) In case, where interest is payable on the amount of input tax credit wrongly availed and utilised in accordance with sub-section (3) of section 50, the interest shall be calculated on the amount of input tax credit wrongly availed and utilised, for the period starting from the date of utilisation of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount, at such rate as may be notified under said sub-section (3) of section 50.

Explanation. – For the purposes of this sub-rule, –

(1) input tax credit wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and the extent of such utilisation of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.

(2) the date of utilisation of such input tax credit shall be taken to be, – (a) the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or (b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.”

[Emphasis in bold]

7.38 While sub-section (3) to Section 50 of the CGST Act, 2017 speaks about ‘input tax credit wrongly availed and utilised’, Explanation to sub-rule (3) of Rule 88B CGST Rules provides for the situation in which the ‘utilisation of input tax credit wrongly availed’. Therefore, sub-section (3) to Section 50 of the CGST Act, 2017 read with Explanation to Sub-rule (3) of Rule 88B of the CGST Rules makes ‘input tax credit availed and utilised’ distinct from ‘utilisation of input tax credit availed’ and bring levy of interest only when the input tax credit is utilised. The Explanation further emphasises that input tax credit wrongly availed shall be construed to have been utilised, only when the balance in the electronic credit ledger falls

below the amount of input tax credit wrongly availed, and interest shall be computed on such amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed. If the balance in ECL never falls below that amount, then the input tax wrongly availed would be considered as not utilised and no interest is payable.

7.39 The proposed demand and remittance of Tax by the appellant on 14-03-2024 through DRC-03 was Rs.416/- under IGST, Rs.51,882/- under CGST & Rs.51,882/- under SGST. The copy of the extract of the Electronic credit ledger shows the balance of ITC never gone below Rs 970/- under IGST head, Rs 5,62,561/- under CGST head and Rs 6,30,495/- under SGST head for the period 19.03.2019 to 20.03.2024 (first and last date in the statement). Therefore, we have no hesitation to decide that no interest is liable to be paid by the Appellant in terms of sub-section (3) to Section 50 of the CGST Act, 2017 read with Explanation to sub-rule (3) of Rule 88B CGST Rules 2017.

7.40 As the Appellant paid the tax of Rs 1,04,180/- before the notice was issued, and no interest was payable on it, section 73(5) and (6) barred a notice for that tax or for any penalty on it. Sub-sections read thus:

(5) The person chargeable with tax may, before service of notice under subsection (1) or, as the case may be, the statement under sub-section (3), pay the amount of tax along with interest payable thereon under section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.

(6) The proper officer, on receipt of such information, shall not serve any notice under subsection (1) or, as the case may be, the statement under sub-section (3), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

7.41 Therefore, the penalty of Rs 5,188/- as imposed and upheld in the impugned order which is in violation of the section 73(5) and (6) of the CGST Act also will not survive.

7.42 Accordingly, the levy of interest of Rs 27,530/- and penalty of Rs 5,188/- under issue (iii) is set aside.

(iv) Demand of tax of Rs. 99,718 on account of credit notes not reported in form GSTR-1 of the Appellant

7.43 It was the case of the Revenue from Audit and through Adjudication and first Appeal that the appellant has reduced the taxable turnover of Rs.11,77,942.00 as sales returns in sales register but the same is not reported in GSTR-1 and as such it was held that the appellant was liable to pay the tax of Rs. 99,718.00 (IGST of Rs.15,652.00, CGST of Rs. 42,183.00 and SGST of Rs.42,183.00).

7.44 The Appellant at every stage of response submitted that the Credit note was issued by them as against the sales return. When a credit note is issued on account of sales return there will not be any short payment of tax, but excess payment of tax if they chose to claim it. Further it was also mentioned in the replies and submissions that the total of IGST, CGST and SGST as computed by the Tax authorities would, if at all it survived, be Rs 100018/- and not Rs 99718/-; that the Appellant has remitted excess tax in Form GSTR3B as compared to Form GSTR 1 to the extent of Rs. 8,01,651/- (IGST Rs. 5,90,746/-, CGST and SGST of Rs. 1,05,452/- each). The Appellant also contested before the Audit, Adjudicating authority and Appellate Authority that this issue was never raised in the Audit Report drawn under Section 65(6) of the CGST Act, 2017 instead the same is raised in the impugned adjudication proceedings. The Ld AR however choose not to press this point before this Tribunal.

7.45 In the impugned order the submissions made by the Appellant was rejected only on one ground that *'the appellant contends that this issue was never raised in the Audit Report drawn under Section 65(6) of the CGST Act, 2017 instead the same is raised in the impugned adjudication proceedings. For the reasons recorded on Issue No.1 above, this contention of the*

appellant is unacceptable and same is rejected'. No findings by the Appellate Authority regarding the other issues raised by the Appellant.

7.46 We have gone through the facts. It is undisputed that the Appellant had issued credit note valued Rs.11,77,942.00 on their customers based on sales return and the same was not reported in the GSTR 1.

7.47 Section 37 of the Act provides for the law related to furnishing the details of outward supplies. Subsection (1) reads for the relevant period as follows:

(1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed:

.....

.....

Explanation.—For the purposes of this Chapter, the expression —details of outward supplies shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.

[Emphasis in bold]

7.48 Sub Rule 2 of Rule 59 of the CGST Rules as exists for the period 2019-20 provides that **FORM GSTR-1** shall interalia includes credit notes issued during the month for invoices issued previously.

*(2) The details of outward supplies of goods or services or both furnished in **FORM GSTR-1** shall include the—*

(a) invoice wise details of all –

(i) inter-State and intra-State supplies made to the registered persons; and

(ii) inter-State supplies with invoice value more than two and a half lakh rupees made to the unregistered persons;

(b) consolidated details of all –

(i) intra-State supplies made to unregistered persons for each rate of tax; and

(ii) State wise inter-State supplies with invoice value upto two and a half lakh rupees made to unregistered persons for each rate of tax;

(c) debit and credit notes, if any, issued during the month for invoices issued previously.

[Emphasis in bold]

7.49 It derives that it is mandatory on the part of the supplier to report the details of Credit notes if any, issued during the period in Form GSTR 1.

7.50 The Revenue set up a case during audit to demand tax equivalent to the tax attributable to the credit note issued by the Appellant and the same is confirmed and uphold thereafter.

7.51 The question there is whether the failure to report the Credit note issued by the supplier in their Form GSTR 1 would result in to a short payment of GST in the hands of the supplier.

7.52 Section 34 of the CGST Act deals with preparation and issuance of Credit and Debit notes, which stands during the year 2019-20 as follows:

34. Credit and debit notes.—

(1) Where one or more tax invoices have 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 one or more credit notes for supplies made in a financial year 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 such manner as may be prescribed:

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.

[Emphasis in bold]

7.53 Section 34 also deals with the adjustment that could be available to the supplier who issue Credit notes within the permitted time limit. It provides for reduction in output tax liability of the supplier subject to the condition that the incidence of tax and interest on such supply has not been passed on to any other person. It means that by issuing Credit note by satisfying the conditions stipulated under the GST Law the value of supply originally made and tax involved therein would only get reduced and it, no way increase the liability in the hands of the supplier.

7.54 From the above discussion we conclude that the Respondent has made a wrong assumption that non reporting the Credit note issued by the Appellant creates a tax demand. We therefore hold that the omission to report the credit notes in Form GSTR-1, though a lapse in compliance, does not by itself create a liability to tax. The demand of Rs 99,718/- is set aside with the interest and penalty on it.

Interest and penalty

8.0 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.”

8.1 Interest is compensatory and is levied on an assessee who has withheld tax that was due and payable. It follows the tax that remains payable. In this case, the credit of Rs 51,255/- disallowed under issue (i), therefore interest is to be computed under section 50(3) read with rule 88B.

8.2 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.”

8.3 The penalty depends on tax determined as due. If there is no tax is due, penalty cannot survive. Penalty under Section 73(9) is upheld in case of demand of tax upheld under issue (i) supra.

9.1 **In the result, the appeal is partly allowed and the impugned order is modified as follows:**

(i) **In respect of issue related to demand of excess ITC of Rs 3,96,226/- due to difference between Form GSTR 2A and Form GSTR 3B:**

(a) **the disallowance of ITC of Rs 3,96,226/- is set aside to the extent of Rs 3,44,974/- (IGST Rs 95,588/-, CGST Rs 1,24,693/- and SGST Rs 1,24,693/-)**

(b) **the disallowance is confirmed to the extent of Rs 51,255/- (IGST Rs 2,721/-, CGST Rs 24,267/- and SGST Rs 24,267/-)**

- (c) the Appellant shall pay the amount so confirmed, with interest under section 50(3) of the CGST Act read with rule 88B of the CGST Rules, and penalty under section 73(9) of the CGST Act 2017.
- (ii) In respect of issue related to Tax payable on unaccounted inward supply turnover, the demand is set aside along with interest.
- (iii) In respect of issue related to Levy of interest amounting to Rs. 27,530/- KGST on account of non-reversal of input tax credit on purchase return, the interest and the penalty are set aside. The tax paid on 14.03.2024 stands appropriated.
- (iv) In respect of issue related to Demand of tax of Rs. 99,718 on account of credit notes not reported in form GSTR-1 of the Appellant, the demand is set aside along with interest and penalty.
- (v) No order as to costs

9.2 The appeal is disposed of in these terms.

Order pronounced on 14th October 2026.

Ravi Jesuraj S
Member (Technical)

Prabhakaran P M
Member (Judicial)