GSTAT

State Bench Lucknow

Division Bench Court No. Court II

APL/31/LCK/2026

M/S ADITI ENTERPRISES **.....Appellant**

Versus

BRAJESH SINGH YADAV, PROPRIETOR, 101 ACHHI MOHAL MEDICAL COLONY GHATAMPUR KANPUR U.P.-209206 & ORS. **.....Respondent**

Quorum

Hon'ble Narendra Kumar, Member(Judicial)
Hon'ble Alok Chopra, Member (Technical)

Counsel for Appellant
HITENDRA KUMAR
SHRI HITENDRA KUMAR, ADVOCATE

Counsel for Respondent
SHRI RAJESH KUMAR SINGH, DY. COMMISSIONER, SGST

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 : Yes

Order reference no. : ZA090371026000335H **Date of order :** 14/10/2026

1.	GSTIN/Temporary ID/UIN - 09AFBPY7501E1ZE	
2.	Appeal Case Reference no. - APL/31/LCK/2026	Date - 11/02/2026
3.	Name of the appellant - M/S ADITI ENTERPRISES , gstgurug01@gmail.com , 7607135008	
4.	Name of the respondant - 1. Shri Prakash Yadav Joint Commissioner(IT) State Tax Headquarters Lucknow , ctithqlu-up@nic.in , 7235002314 2. Brajesh Singh Yadav , maakrishna_123@yahoo.in , 7607135008	
5.	Order appealed against - AD0905250820640	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD0911252595645	Date - 14/11/2025

6.	Personal Hearing - 14/10/2026 30/09/2026 22/09/2026 16/09/2026 03/09/2026 03/08/2026 21/07/2026 19/05/2026 07/05/2026
7.	Order in brief - The Bench partly allows the appeal filed by M/s Aditi Enterprises. It holds that the penalty of Rs. 23,40,000/- is unsustainable, as the omission of B2C sales is inadvertent, the turnover is duly recorded in the books of accounts and disclosed in the Annual Return, and the entire tax liability of Rs. 2,34,00,000/- is voluntarily discharged through DRC-03 before the issuance of the Show Cause Notice. However, the Bench directs the proper officer to recompute the interest demand of Rs. 75,23,100/- under Section 50 of the CGST/SGST Act, 2017, read with Rule 88B, after verifying the month-wise tax liability and relevant electronic ledger balances.

Summary of Order

8.	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	0		0		0		0		0	0
(b) Interest	3761550		3761550		0		0		7523100	0
(c) Penalty	1170000		1170000		0		0		2340000	0
(d) Fees	0		0		0		0		0	0
(e) Others										0
(f) Refund										0

9.	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
Levy of Penalty		2340000	0
Levy of interest or late fee or fine		7523100	
10.	If remanded with directions:		
	a) Remanded to: Adjudicating Authority		

	b) Directions subject to which remanded, if any: (i) The penalty of Rs. 23,40,000/- imposed under the impugned order is set aside. (ii) As regards interest, the demand of Rs. 75,23,100/- is set aside to the extent of the existing computation, with a direction to the proper officer to recompute the same strictly in accordance with Section 50 of the CGST/SGST Act, 2017 read with Rule 88B of the CGST/SGST Rules, 2017. (iii) The Appellant shall accordingly be liable to pay such amount of interest as is found actually payable upon the aforesaid verification and re-computation.

Place :LUCKNOW

Signature

Date : 15.10.2026

LUCKNOW Deepak Yadav

Designation : Stenographer/Law researcher

Jurisdiction :Lucknow

ORDER

The cause title is erroneous since the name of the appellant is also appearing as respondent no. 1 along with the Department's as 'others'. The cause title has still not been corrected in spite of repeated directions of the Bench. It is understood there is a technical glitch. Therefore, the Bench is of the considered view that the cause title will be read as, Appellant M/s ADITI ENTERPRISES Vs. SHRI PRAKASH YADAV, JOINT COMMISSIONER (IT), STATE TAX HEADQUARTER, LUCKNOW as Respondent as per APL -05.

BRIEF FACTS OF THE CASE

1. The present appeal filed by the appellant, the proprietor of **M/s Aditi Enterprises**, GSTIN **09AFBPY7501E1ZE**, is against the First Appellate Authority's Order No. **ZD0911252595645 dated 14.11.2025**, where in it upheld the disputed demand of **interest Rs. 75,23,100/- and penalty Rs. 23,40,000/-**, and the adjudicating authority Order No. ZD0902254010891 dated 28.02.2025, confirmed the demand of interest and penalty. Therefore, the Appellant has filed the present Second Appeal against the impugned order and consequential demand of interest and penalty.

1.1 During FY 2020-21, certain B2C sales were inadvertently omitted from the monthly GSTR-1 and GSTR-3B returns due to a clerical error; however, the same were duly disclosed in the Annual Return (GSTR-9/9C). Upon identification of the omission, the Appellant voluntarily discharged the entire tax liability of Rs. 2,34,00,000/- through DRC-03 (ARN: AD090322005039G) dated 04.03.2022, prior to the issuance of any show cause notice. Nevertheless, the adjudicating authority, vide Order No. ZD0902254010891 dated 28.02.2025, confirmed the demand of interest and penalty. The appellant submitted that the voluntary payment made before initiation of proceedings

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squarely falls within the scope of Section 73(5) of the CGST Act, particularly in the absence of any intention to evade payment of tax. Moreover, the interest liability has not been correctly determined, as the balances available in the relevant electronic ledgers during the period in question have not been duly taken into consideration.

Grounds of appeal-

2. The Appellant submitted that the tax liability was voluntarily discharged on the basis of self-ascertainment, along with the requisite details, through FORM GST DRC-03 prior to the issuance of the Show Cause Notice. It was submitted that, in view of the provisions of Section 73(5) read with Section 73(6) of the CGST Act, 2017, no notice was liable to be issued in respect of the amount so paid.

2.1 The Appellant further submitted that the discrepancy arose due to a bona fide clerical error and that there was no intention to evade payment of tax. The said error was subsequently corrected and duly reflected in the Annual Return GSTR9/9C. Accordingly, the Appellant contended that the imposition of penalty was not warranted in the facts and circumstances of the case.

2.2 It was also submitted that the interest liability had been incorrectly computed by the authorities without taking into consideration the sufficient balance available in the Electronic Credit Ledger and Electronic Cash Ledger during the relevant period. The Appellant contended that the ledger balances ought to have been duly verified while determining the actual interest liability.

2.3 The Appellant further submitted that the payment made through FORM GST DRC-03 was already available on the GST portal and formed part of the record, but the same was not duly considered by the adjudicating authority. It was contended that the impugned order was passed without proper verification and reconciliation of the DRC-03 payment and the relevant electronic ledgers.

2.4 In view of the above, the Appellant prayed for setting aside the impugned Appellate Order as well as the Original Order, quashing the demand of interest

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and penalty amounting to **Rs. 98,63,100/-**, and granting refund of the pre-deposit, if any, made for filing the appeal.

3. Following are the issues to be determined by this bench,

I. Whether the proceedings are sustainable when the Appellant had voluntarily discharged the self-ascertained tax liability without considering the DRC-03 payment and relevant GST portal records before issuance of the Show Cause Notice, in terms of Section 73(5) and 73(6) of the CGST/SGST Act, 2017?

II. Whether penalty is justified for an inadvertent clerical error, in the absence of any intention to evade tax?

III. Whether interest was correctly calculated without considering the balance available in the Electronic Cash/Credit Ledger?

Appellant's Contention

4. Shri Hitendra Kumar, Advocate, appeared on behalf of the Appellant and represented the case before the Bench. He is hereinafter referred to as the "Ld. Appellant."

4.1 The Ld. Appellant submitted that during FY 2020-21, certain B2C sales were inadvertently omitted from the monthly GSTR-1 and GSTR-3B returns due to a clerical error, though the same were duly disclosed in the Annual Return (GSTR-9/9C). Upon noticing the omission, the Appellant voluntarily discharged the entire tax liability of Rs. 2,34,00,000/- through DRC-03 (ARN: AD090322005039G) dated 04.03.2022, prior to issuance of any Show Cause Notice.

4.2 The Ld. Appellant further submitted that the payment was made voluntarily and without any intention to evade tax. Accordingly, the benefit of Section 73(5) of the CGST Act ought to have been extended to the Appellant. It was also submitted that the interest demand was not correctly determined, as the balances available in the Electronic Cash/Credit Ledgers during the relevant period were not duly considered.

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4.3 The Ld. Appellant further submitted that Rule 88B (1) of the CGST Rules, 2017 specifically provides that, where the return is furnished belatedly, interest under Section 50 is to be calculated only on the portion of tax paid by debiting the Electronic Cash Ledger for the period of delay. Therefore, the interest cannot be calculated on the entire tax liability without determining the portion actually discharged through the Electronic Cash Ledger. The Appellant accordingly submitted that the interest demand requires re-computation in accordance with Rule 88B (1), after duly considering the relevant Electronic Cash and Credit Ledger balances.

Respondent's Contention

5. Shri Rakesh Kumar Singh, Learned Deputy Commissioner, appeared on behalf of the Respondent and represented the case before the Bench. He is hereinafter referred to as the "Ld. Respondent."

5.1 The Ld. Respondent submitted that the Appellant had not specified in its reply for which particular month the tax liability of CGST Rs. 11,70,000 and SGST Rs. 11,70,000, totalling Rs. 23,40,000, discharged belatedly through the Electronic Credit Ledger.

5.2 It was further submitted that the said liability was set off by the Appellant from its Electronic Credit Ledger on 04.03.2022. On verification of the Electronic Credit Ledger for the financial year 2020-21, it was observed that the ITC available therein was insufficient to discharge the said liability at the relevant time.

5.3 The Ld. Respondent accordingly submitted that the tax having been discharged belatedly, the Appellant was liable to pay interest under Section 50, amounting to Rs. 37,61,550 under CGST and Rs. 37,61,550 under SGST, totalling Rs. 75,23,100.

5.4 It was further submitted that the Appellant was also liable to penalty under Section 73, and accordingly, penalty of Rs. 11,70,000 under CGST and Rs. 11,70,000 under SGST, totalling Rs. 23,40,000, was imposed.

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5.5 Further, the Ld. respondent reiterated that the order passed by the Adjudicating authority and the First Appellate Authority are proper and the present appeal should be dropped.

Findings of the Bench

6. We have carefully gone through the submissions made by the Appellant, the month-wise reconciliation statement of B2C sales for the financial year 2020-21, and the material available on record. The said reconciliation was specifically required to be verified by the Department. On verification, the Department confirmed that the data furnished by the Appellant was correct. Thus, there is no dispute regarding the correctness of the figures and the month-wise reconciliation placed on record.

6.1 From the reconciliation, it is noticed that certain B2C sales were inadvertently not reported in the corresponding monthly GSTR-1/GSTR-3B returns due to a clerical error. At the same time, the said sales were duly reflected in the books of account and were also disclosed in the Annual Return (GSTR-9/9C). The omission, therefore, was in the monthly reporting of the turnover and not in the accounting of the underlying transactions.

6.2 It is also relevant to note that the B2C sales amounting to **Rs. 8,601.69 for September 2020** had already been reported in GSTR-1. The remaining B2C sales which were not reflected in the monthly returns pertained to **April 2020 to August 2020 and October 2020 to March 2021**.

6.3 The Bench also finds considerable significance in the fact that the Appellant on identification of the omission **voluntarily and suo moto discharged the entire tax liability of Rs. 2,34,00,000/- through Form GST DRC-03 vide ARN No. AD090322005039G dated 04.03.2022**. This payment was made **before issuance of any Show Cause Notice**.

6.4 This Bench takes note of the bona fide conduct of the Appellant, the correctness of the reconciliation as verified by the Respondent that could not be uploaded onto the portal due to non-mapping of the respondent credentials to upload the verified report onto the portal. However, during the hearing the Ld. Respondent admitted that on verification of the sales summary and

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electronic credit ledger of the appellant not only the reconciliation but also the fact of voluntary discharge of the entire tax liability prior to issuance of the Show Cause Notice.

6.5 In the considered view of the Bench, these facts cannot be viewed in isolation. The record shows that the turnover was not outside the books of accounts and was not omitted from the Annual Return; rather, the discrepancy arose on account of its non-reporting in the relevant monthly returns. More importantly, upon noticing the error, the Appellant himself came forward and discharged the entire tax liability without waiting for the Department to initiate proceedings.

6.6 We have carefully considered the submissions made by the Ld. Appellant and the Ld. Respondent and have also gone through the records available before us. The principal issue which arises for consideration is whether the demand of interest and penalty imposed upon the Appellant can be sustained when the entire tax liability relating to the omitted B2C sales had already been discharged by the Appellant voluntarily through FORM GST DRC-03 dated 04.03.2022, much before the issuance of the Show Cause Notice.

6.7 At the outset, we find that the month-wise reconciliation of the B2C sales furnished by the Appellant was specifically required to be verified by the Department. Though the verified report could not be uploaded on the portal owing to the technical issues being faced by the department and non-mapping of the back office of the department to upload the documents onto the portal of the Respondent, the Ld. Respondent, during the course of hearing before this Bench, admitted that the sales summary and the relevant Electronic Credit Ledger of the Appellant had been examined and that the tax liability had in fact been discharged by the Appellant prior to the issuance of the Show Cause Notice. Thus, the factual position regarding the voluntary payment of the tax liability is not in dispute.

6.8 The reconciliation placed on record further shows that certain B2C sales pertaining to the financial year 2020-21 were not reported in the corresponding monthly GSTR-1/GSTR-3B returns due to an inadvertent

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clerical error. At the same time, the said turnover was duly accounted for in the books of accounts and was also disclosed in the Annual Return in FORM GSTR-9/9C. We also notice that B2C sales amounting to Rs. 8,601.69 for September, 2020 had already been reported in GSTR-1, whereas the remaining omitted B2C sales related to the months of April, 2020 to August, 2020 and October, 2020 to March, 2021.

6.9 The Bench considers it significant that the Appellant, on noticing the aforesaid omission, did not wait for the Department to initiate proceedings. Instead, the Appellant came forward on his own and discharged the entire tax liability of **Rs. 2,34,00,000/- through FORM GST DRC-03 vide ARN No. AD090322005039G dated 04.03.2022**, i.e. prior to the issuance of the Show Cause Notice.

6.10 In our considered view, this fact has to be given due weightage while examining the subsequent demand of interest and penalty. The record before us does not indicate that the turnover in question was completely outside the books of accounts or that the same was concealed from the Department. Rather, the facts demonstrate that the turnover was accounted for and subsequently disclosed in the Annual Return, but was inadvertently not reported in the relevant monthly returns. The Appellant thereafter voluntarily discharged the corresponding tax liability before the Department initiated proceedings by way of a Show Cause Notice.

Interest

7. This Bench is not inclined to agree with the Appellant's contention that merely because the tax was voluntarily paid before issuance of the Show Cause Notice, no interest whatsoever can arise. It is to be mentioned that Interest is a statutory consequence of delayed payment of tax and has to be determined in accordance with Section 50 of the CGST/SGST Act, 2017 and the applicable provisions of Rule 88B of the CGST/SGST Rules, 2017, which are as reproduced below –

"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

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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 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."

Rule 88B. Manner of calculating interest on delayed payment of tax.-

(1) In case, where the supplies made during a tax period are declared by the registered person in the return for the said period and the said return is furnished after the due date in accordance withprovisions of section39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 [3][or section 74A] in respect of the said period, the interest on tax payable in respect of such supplies shall be calculated on the portion oftaxwhichis paid by debiting the electronic cash ledger, for the period of delay in filing the said return beyond the due date, at such rate as may be notified under sub-section (1) of section 50.

*[2][**Provided** that where any amount has been credited in the Electronic Cash Ledger as per provisions of sub-section (1) of section 49 on or before the due date of filing the said return, but is debited from the said ledger for payment of tax while filing the said return after the due date, the said amount shall not be taken into consideration while calculating such interest if the said amount is lying in the said ledger from the due date till the date of its debit at the time of filing return.]*

(2) In all other cases, where interest is payable in accordance with sub section (1) of section 50, the interest shall be calculated on the amount of tax which remains unpaid, for the period starting from the date on which such tax was due to be paid till the date such tax is paid, at such rate as may be notified under sub-section (1) of section 50.

7.1 However, the manner in which the interest has been quantified in the impugned order also requires examination. The Ld. Appellant has specifically contended that the available balances in the Electronic Credit Ledger and Electronic Cash Ledger were not properly taken into account while

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determining the interest liability. The Ld. Respondent, on the other hand, has submitted that the relevant tax liability was discharged only on 04.03.2022.

7.2 The appellant uploaded DRC 03 on the portal which shows that the appellant made payment of tax liability of Rs. 2,34,00,000 without payment of any interest and penalty. It is evident from the facts that the relevant period of tax was F.Y. 2020-21. Since the appellant paid the tax on 04-03-2022 through DRC 03, therefore, the provisions of Section 50 CGST/SGST Act, 2017 are attracted in the present case.

7.3 We find that the rival submissions cannot be appropriately decided merely by taking the entire tax liability of Rs. 2,34,00,000/- as the basis for computation of interest. The actual interest liability has to be determined with reference to the month-wise liability, the respective due dates, the date of actual discharge of tax and the amount of tax, if any, required to be discharged through the Electronic Cash Ledger, in accordance with the statutory provisions.

7.4 Therefore, the Appellant cannot be absolved from the liability to pay interest, if otherwise payable under law. The interest of **Rs. 75,23,100/-,** presently confirmed in the impugned order cannot be sustained without undertaking such proper verification and computation.

7.5 Accordingly, the interest demand is required to be recomputed afresh. The proper officer shall undertake a month-wise verification of the omitted B2C turnover and examine the Electronic Credit Ledger and Electronic Cash Ledger for the relevant period and thereafter determine the interest payable strictly in accordance with Section 50 of the CGST Act, 2017 read with Rule 88B of the CGST Rules, 2017. The Appellant shall be liable only for the interest actually payable in accordance with such computation.

Penalty

8. Regarding penalty Section 73 is important under the notice was issued by the proper officer. Section 73 of CGST/SGST is reproduced as below-

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"73. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any willful-misstatement or suppression of facts.—

(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

(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 CHAPTER XV DEMANDS AND RECOVERY 108 under sub-section (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."

8.1 This Bench holds that the Section 73(5) is applicable in the present case. The Appellant had already discharged the entire tax liability of Rs. 2,34,00,000/- before issuance of the Show Cause Notice. Further, the turnover was not in dispute and the Department has itself verified the reconciliation furnished by the Appellant and has not disputed the correctness of the underlying figures.

8.2 In such circumstances, the imposition of penalty of **Rs. 23,40,000/-**, comprising Rs. 11,70,000/- under CGST and Rs. 11,70,000/- under CGST/SGST Act, 2017 merely on account of the inadvertent non-reporting of

the turnover in the monthly returns does not appear justified. The overall conduct of the Appellant, particularly the fact that the entire tax liability was voluntarily discharged before issuance of the Show Cause Notice, is a material circumstance which cannot be ignored.

8.3 The Bench, therefore, finds that the penalty imposed upon the Appellant in terms of Section 73(6) is not sustainable and is liable to be set aside.

ORDER

(i) The penalty of Rs. 23,40,000/- imposed under the impugned order is set aside.

(ii) As regards interest, the demand of Rs. 75,23,100/- is set aside to the extent of the existing computation, with a direction to the proper officer to recompute the same strictly in accordance with Section 50 of the CGST/SGST Act, 2017 read with Rule 88B of the CGST/SGST Rules, 2017.

(iii) The Appellant shall accordingly be liable to pay such amount of interest as is found actually payable upon the aforesaid verification and re-computation.

(iv) The appeal is accordingly partly allowed in the above terms.

The Order is pronounced in Open Court.

(Alok Chopra)

(Narendra Kumar)

Date : 14.10.2026

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