**GSTAT**

**State Bench Agra**

**Court No. Court I**

**APL/14/AGR/2026**

SATYENDRA KUMAR SINGH **.....Appellant**

**Versus**

PEOPLES HONDA, PARTNER, 7/52 A/1 JAWAHAR NAGAR BYE PASS ROAD UPAGR 282002 **.....Respondent**

**Quorum**

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

**Counsel for Appellant**
SH. MUKESH KUMAR, AUTHORIZED REPRESENTATIVE

**Counsel for Respondent**
SH. RAJENDRA PRASHAD PAL, ADVOCATE

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. :** ZA090401026000150H **Date of order :** 16/10/2026

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| **1.** | GSTIN/Temporary ID/UIN - 09AAEFP8123D1ZD | |
| **2.** | Appeal Case Reference no. - APL/14/AGR/2026 | Date - 21/04/2026 |
| **3.** | Name of the appellant - SATYENDRA KUMAR SINGH , satyendra.wonders786@gmail.com , 7235001954 | |
| **4.** | Name of the respondant -<br>1. PEOPLES HONDA , peoplesautomobile@rediffmail.com , 9719006777 | |
| **5.** | Order appealed against - AD090525048507S | |
| | **(5.1) Order Type -** Demand Order | |
| | **(5.2) Ref Number -** ZD090825019510F | Date - 24/07/2025 |
| **6.** | Personal Hearing - 16/10/2026 24/09/2026 11/08/2026 | |

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| **7.** | Order in brief - The orders passed by the subordinate officers without adequate investigation are worthy of being set aside. Accordingly, the impugned order and the adjudication order are set aside. The case is remanded to the Adjudicating Officer with the direction to conduct a detailed investigation as above, and examine the records presented by the taxpayer before the Tribunal and at the first appeal level, and pass appropriate orders in light of the directions given in point number 21 and 22 and 23. |

**Summary of Order**

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| **8.** | If demand order then whether demand quantified: No |

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| **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 |
| Short or non-payment of tax | | 0 | AGRA, BENCH |
| **10.** | If remanded with directions: | | |
| | a) Remanded to: Adjudicating Authority | | |
| | b) Directions subject to which remanded, if any:<br><br>The case is remanded to the Adjudicating Officer with the direction to conduct a detailed investigation as above, and examine the records presented by the taxpayer before the Tribunal and at the first appeal level, and pass appropriate orders in light of the directions given in point number 21 and 22 and 23. | | |

Place :AGRA

Signature

Date : 16.10.2026

AGRA Sandeep Yadav

Designation : Stenographer/Law researcher

Jurisdiction :Agra

**ORDER**

**Per- Vivek Kumar, Member (Technical)**

1-The present appeal has been preferred by the Commissioner State Tax Uttar Pradesh through deputy commissioner state tax sector 6, Agra against the order dated 22.07.2025 passed by the Additional Commissioner Grade II Appeal-IIIrd, State Tax Agra in Appeal No.-2526AAGR000238/2025 year 2017-18.

For the sake of convenience, the appellant shall hereinafter be referred to as the "Revenue" and the respondent as the "taxpayer".

2- The brief facts of the case are that, during scrutiny of the returns filed by the taxpayer M/S Peoples Automobiles, 7/52-A/1, Jawahar Nagar, By Pass Road, Agra, GSTIN-09AAEFP8123D1ZD on the GST portal, including GSTR-1, GSTR-2A, GSTR-9 and GSTR-9C, an amount of Rs. 1419144.00 was noticed in Column 5(O) of GSTR-9C under the description "Adjustment in turnover due to reasons not listed above".

The taxpayer was asked to explain the nature and justification of the aforesaid adjustment, and proceedings under Section 74 of the applicable GST Act were initiated.

3- In response, the taxpayer submitted that the amount represented incentives/discounts received from its supplier, namely, Honda Motorcycle and Scooter India Private Limited. The taxpayer further stated that the amount had already been deposited through Form GST DRC-03, bearing ARN AD546340, Debit Entry No. 43 dated 25.02.2023.

4- It was also noticed that, in earlier proceedings initiated under Section 73 on account of a difference between GSTR-1 and GSTR-3B, tax amounting to Rs. 1079624/-, penalty of Rs. 107962/- and interest of Rs. 30721/- had been imposed upon the taxpayer. In the appeal filed against that order before the Additional Commissioner (Appeals)III, Agra, being Appeal No-2324AAGR000009/2023., the taxpayer had relied upon the aforesaid deposit through DRC-03. The benefit of the deposit was accepted by the appellate authority while deciding the appeal vide order dated 18.07.2023.

5- The adjudicating authority subsequently formed the view that the taxpayer was seeking to avail the benefit of the same deposit twice. Accordingly, proceedings under Section 74 were initiated on the allegation of wilful misstatement and suppression of material facts with intent to evade tax. A demand of tax amounting to Rs. 951128/- and an equal amount of penalty was proposed through show cause notice under section 74 of the CGST/SGST Act. Eventually the adjudicating authority determined tax of Rs. 255446.00, an equal amount of penalty and interest of Rs.343403.40 in relation to the adjustment reflected in GSTR-9C, and passed an order against the taxpayer under section 74.

6- Aggrieved by the adjudication order, the taxpayer preferred Appeal No.-2526AAGR000238/2025 before the First Appellate Authority. The First Appellate Authority, vide the impugned order dated 22.07.2025, decided the appeal in favour of the taxpayer. The Revenue has challenged this order before this Tribunal by

way of present appeal.

## Submissions on behalf of the Revenue

7- Shri Mukesh Kumar Deputy Commissioner and departmental authorised representative, appeared on behalf of the Revenue and reiterating the grounds of appeal made following submission.

8- It was submitted that a discount can be excluded from the value of a supply only when the statutory conditions prescribed under Section 15(3) of the applicable GST Act are fulfilled. In the case of a discount granted after the supply, it must be established in terms of an agreement entered into at or before the time of supply, must be specifically linked to the relevant invoices, and the recipient must reverse the corresponding input tax credit attributable to such discount, wherever required by law. It was argued that the First Appellate Authority allowed the adjustment without properly examining whether these statutory conditions had been satisfied.

9-The Departmental Representative further submitted that the taxpayer had already obtained the benefit of the amount deposited through DRC-03 in the earlier appellate proceedings and was attempting to claim the benefit of the same amount again. Such conduct, according to the Revenue, amounted to wilful misstatement and suppression of material facts with intent to evade tax, thereby attracting Section 74.

10- It was also contended that additional evidence had been produced before the First Appellate Authority which were allowed without affording the adjudicating authority an opportunity to examine the same, contrary to the applicable procedural requirements, including Rule 112 of the relevant GST Rules. It is therefore submitted that the impugned order, having been passed in reliance upon such inadmissible additional evidence, is legally unsustainable. The matter deserves to be remanded back to the adjudicating authority for proper verification, examination, and cross-examination of the said documents in accordance with law.

11-It was also submitted that the Learned Appellate Authority has failed to examine the true nature of the so-called “incentives,” which, being contingent upon achievement of targets, are in the nature of consideration for promotional or marketing services and are independently taxable under Section 7 of the CGST Act, 2017 read with Schedule II

12- On these grounds, the Revenue prayed that the impugned order be set aside and its appeal be allowed.

## Submissions on behalf of the taxpayer

13- Shri Rajendra Prasad Pal, learned counsel for the taxpayer, appeared and filed written submissions along with copies of agreements and other supporting documents. He submitted that the impugned order was based upon a proper appreciation of the facts and evidence available on record.

14-The taxpayer explained that the earlier reference to the deposit through DRC-03 was made inadvertently and out of a lack of understanding of the applicable statutory provisions, particularly because the financial

year in question related to the initial period of implementation of GST.

15- It was further submitted that the amount reflected in Column 5(O) of GSTR-9C represented discounts granted by the supplier under a pre-existing agreement and that such discounts satisfied the requirements of Section 15(3) of the GST Act.

16- The taxpayer denied having concealed any material fact or made any wilful misstatement. It was argued that the essential ingredients for invoking Section 74 were absent and that the impugned order had correctly appreciated the relevant facts and evidence.

The learned counsel accordingly prayed that the departmental appeal be dismissed.

## Discussion and findings

17- The principal controversy in the present appeal concerns the amount of Rs. 1419144/- reflected in Column 5(O) of GSTR-9C and the legal consequences of the discounts or incentives granted by the supplier to the taxpayer.

18- The parties do not materially dispute that the amount in question relates to discounts or incentives granted by Honda Motorcycle and Scooter India Private Limited. The dispute, however, concerns the legal treatment of such discounts, their effect on the taxable turnover of the taxpayer, and the alleged repeated availment of the benefit of the amount deposited through DRC-03.

19-In order to adjudicate these issues, it is necessary to examine the relevant statutory provisions. Section 15 of the CGST Act, 2017, deals with the value of taxable supply. Section 15(3), insofar as relevant, provides as follows:

15(3)- “The value of the supply shall not include any discount which is given—

(a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and

(b) after the supply has been effected, if—

(i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and

(ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.”

The aforesaid provision governs the determination of the value of the supplier’s taxable supply. It prescribes the conditions under which a discount may be excluded from that value of the taxable supply of the supplier

and not from the value of taxable supply of the recipient. It is, therefore, necessary to distinguish between the adjustment of the supplier's taxable value on account of a post-supply discount and the determination of the recipient's own turnover and output tax liability.

20- The mere fact that a recipient has received a discount or incentive from its supplier does not establish that the recipient is entitled to reduce its own outward taxable turnover by the same amount. The tax treatment must be determined with reference to the nature of the transaction, the statutory provisions applicable thereto, the relevant invoices and credit notes, and the treatment adopted by the supplier and the recipient in their respective returns. Consequently, the adjudicating authority was required to examine the actual nature of the incentive and its treatment in the GST returns rather than to proceed solely on the basis of the amount disclosed in Column 5(O) of GSTR-9C.

21-The adjudicating authority shall, therefore, ascertain:

(i) whether the supplier issued credit notes in respect of the discounts or incentives in question and whether those credit notes were recorded in GSTR-1 of the Supplier;

(ii) whether the discounts were specifically linked to the relevant invoices and were established under an agreement entered into at or before the time of supply;

(iii) whether the supplier reduced the taxable value of its supplies on account of those discounts and reflected the corresponding reduction in its GST returns, including GSTR-1, wherever applicable; and

(iv) whether the recipient was consequently required to reverse the input tax credit attributable to the discount under the applicable statutory provisions.

22- If the supplier reduced its taxable value on account of the discount in accordance with Section 15(3), the corresponding consequences for the recipient's input tax credit shall be determined in accordance with the applicable law and the relevant documents.

Conversely, if the supplier did not reduce its taxable value or output tax liability on account of the discount, the question of requiring the recipient to reverse input tax credit merely on the ground that the discount was received any reversal of Input Tax Credit is not warranted.

23 -The adjudicating authority must also verify whether the amount of Rs. 1419144/- was merely disclosed as an adjustment in the reconciliation statement or whether the taxpayer actually reduced its declared outward taxable turnover or output tax liability in GSTR-1, GSTR-3B or any other relevant return on the basis of that amount. If the taxpayer did not reduce its outward taxable turnover or output tax liability on account of the said adjustment, the mere disclosure of the amount in Column 5(O) of GSTR-9C would not, without more, justify a demand of output tax from the taxpayer.
On the other hand, if the taxpayer did reduce its outward taxable turnover or tax liability on that basis, the adjudicating authority must quantify the resulting tax effect, and determine the liability in accordance with

law.

24- In the grounds of appeal, the Department has described this discount as a supply of promotion and marketing services provided to the supplier, but this point was neither raised by the department in the show-cause notice nor did it determine the turnover for the outward supply of services in the order passed under Section 74. Therefore, this argument of the Department is not acceptable at this stage.

## Order

25- In view of the foregoing discussion, we are of the considered opinion that the orders passed by the subordinate officers without adequate investigation are worthy of being set aside. Accordingly, the impugned order and the adjudication order are set aside. The case is remanded to the Adjudicating Officer with the direction to conduct a detailed investigation as above, and examine the records presented by the taxpayer before the Tribunal and at the first appeal level, and pass appropriate orders in light of the directions given in point number 21 and 22 and 23.

26- It is also clarified that without issuing any new show cause notice, fresh order will be passed after conducting an inquiry as above only in the light of points raised in the previously issued show-cause notice.

27- There is no pending interim application in the appeal
28- Order pronounced in the open court on this 16th day of October 2026.

29- This order be communicated to all concerned, as per rules.

(Ajeet Singh)

(Vivek Kumar)

**Dated: 16.10.2026**