GSTAT

State Bench Lucknow

Division Bench Court No. Court II

APL/89/LCK/2026

KUNWAR MRITYUNJAY .....**Appellant**

Versus

M/S DEEPAK LAMINATION, PROPRIETOR, NA DISHA SADAN GARHI ROAD MIDANIAN LAKHIMPUR UPLAK 262701 NEAR SSB CAMPUS .....**Respondent**

Quorum

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

Counsel for Appellant
SHRI RAJESH KUMAR SINGH, DEPUTY COMMISSIONER, SGST

Counsel for Respondent
SHRI DEEPAK AGARWAL, PROPRIETOR

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. : ZA090371026000365H **Date of order :** 16/10/2026

1.	GSTIN/Temporary ID/UIN - 09ABKPA8195M1Z0	
2.	Appeal Case Reference no. - APL/89/LCK/2026	Date - 17/04/2026
3.	Name of the appellant - Kunwar Mrityunjay , m75chaturvedi@gmail.com , 9452743109	
4.	Name of the respondant - 1. M/S DEEPAK LAMINATION , deepaklamination@yahoo.com , 9415148262	
5.	Order appealed against - AD090823073447N	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD0902242902677	Date - 28/02/2024
6.	Personal Hearing - 16/10/2026 12/10/2026 23/09/2026 15/09/2026 02/09/2026 24/08/2026 19/08/2026	

7.	Order in brief - (i) The impugned Order-in-Appeal passed by the First Appellate Authority and the Order-in-Original passed by the Adjudicating Authority are hereby set aside. The matter is remanded to the Adjudicating Authority for fresh adjudication in accordance with law. The authority shall also examine the fulfilment of the applicable statutory conditions for availment of ITC and record specific, clear and reasoned findings on the issues involved. (ii) The Respondent shall be afforded a reasonable and effective opportunity to produce all relevant documents and supporting evidence concerning the transactions and the movement of goods. The Respondent is directed to place such documents before the Adjudicating Authority for consideration during the fresh adjudication proceedings.

Summary of Order

8.	If demand order then whether demand quantified: No

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	(i) The impugned Order-in-Appeal passed by the First Appellate Authority and the Order-in-Original passed by the Adjudicating Authority are hereby set aside. The matter is remanded to the Adjudicating Authority for fresh adjudication in accordance with law. The authority shall also examine the fulfilment of the applicable statutory conditions for availment of ITC and record specific, clear and reasoned findings on the issues involved. (ii) The Respondent shall be afforded a reasonable and effective opportunity to produce all relevant documents and supporting evidence concerning the transactions and the movement of goods. The Respondent is directed to place such documents before the Adjudicating Authority for consideration during the fresh adjudication proceedings.	
10.	If remanded with directions:		
	a) Remanded to: Adjudicating Authority		
	b) Directions subject to which remanded, if any: (i) The impugned Order-in-Appeal passed by the First Appellate Authority and the Order-in-Original passed by the Adjudicating Authority are hereby set aside. The matter is remanded to the Adjudicating Authority for fresh adjudication in accordance with law. The authority shall also examine the fulfilment of the applicable statutory conditions for availment of ITC and record specific, clear and reasoned findings on the issues involved. (ii) The Respondent shall be afforded a reasonable and effective opportunity to produce all relevant documents and supporting evidence concerning the transactions and the movement of goods. The Respondent is directed to place such documents before the Adjudicating Authority for consideration during the fresh adjudication proceedings.		

Place :LUCKNOW

Date : 16.10.2026

Signature

LUCKNOW Deepak Yadav

Designation : Stenographer/Law researcher

Jurisdiction :Lucknow

ORDER

1. BRIEF FACTS OF THE CASE

1.1 The present appeal has been filed by the Appellant, Shri Kunwar Mrityunjay, Deputy Commissioner, Sector-1, State Tax Department, Lakhimpur Kheri, against the order passed by the learned Additional Commissioner, Grade-2 (Appeal), Sitapur, in the case of M/s Deepak Lamination, GSTIN 09ABKPA8195M1Z0, for F.Y. 2020-21. The respondent had availed ITC on invoices issued by M/s M.H. Enterprises, GSTIN 09AJDPHM7962C3Z5, which was found to be a non-existent firm during investigation by SIB. Accordingly, the ITC was liable to be reversed and consequential demand was created under the UPGST Act, 2017.

1.2 The First Appellate Authority passed Order No. APL04-ZD0902242902677 dated 28.02.2024. In which the demand was quashed and the appeal of the Respondent was allowed. The Appellant is aggrieved by the said order, as the ITC was claimed on invoices issued by a non-existent supplier and the statutory conditions for availment of ITC were not fulfilled. Hence, the appellant argued that the impugned order deserves to be set aside/modified and the demand restored in accordance with law, in the interest of revenue.

2. GROUNDS OF APPEAL

2.1 The Appellant submitted that the learned First Appellate Authority erred in allowing ITC merely on the basis of existence of the supplier, M/s M.H. Enterprises, without examining the actual movement and receipt of goods. The respondent failed to discharge the burden under Section 155 read with Section 16(2)(b) of the UPGST Act 2017and could not establish the genuineness of the transactions despite adequate opportunity, The learned First Appellate Authority failed to examine this fundamental issue, which formed the basis of the Order-in-Original.

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2.2 The Appellant submitted that the learned Appellate Authority erred in allowing ITC merely on the basis of tax invoices, electronic reflection of transactions and payment through banking channels, without examining the actual movement and receipt of goods. The supplier, M/s M.H. Enterprises, was found non-existent at its declared place of business, and therefore the respondent was required to establish actual receipt of the goods as mandated under Section 16(2)(b) of the UPGST Act 2017. Mere existence of invoices or their reflection in the system cannot establish actual supply where the supplier itself was found non-existent. The learned Appellate Authority failed to properly examine this vital issue, despite CBIC Circular No. 171/03/2022-GST dated 06.07.2022 regarding invoices issued without actual supply.

2.3 The appellant submitted that the present appeal merits consideration on merits notwithstanding the monetary limit of Rs. 20,00,000/- prescribed under Circular No. 207/1/2024-GST dated 26.06.2024, as the matter falls within the exclusion under Para 4(iv)(e) thereof, concerning recurring issues involving interpretation of the Act, Rules, notifications, circulars, orders or instructions. The appeal involves interpretation and application of Section 16(2)(b) of the UPGST Act, 2017, regarding the admissibility of Input Tax Credit (ITC) where the supplier was found to be non-existent, particularly the recipient's obligation to establish the actual movement and receipt of goods. Accordingly, the issue is not confined to the disputed ITC of Rs. 67,500/- but raises a recurring question concerning the genuineness of supplies and eligibility for ITC. The appellant further relied upon Para 4(vi) of the said Circular, subject to the requisite opinion of the Board, for consideration of the appeal in the interest of justice or revenue.

3. SUBMISSIONS OF THE APPELLANT

3.1 The appellant submitted that the present case is of availment of ITC from a non existing supplier, who had rendered the bogus ITC to the respondent without actual movement of goods.

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3.2 The Appellant submitted that the learned First Appellate Authority erred in allowing ITC merely on the basis of the existence of the supplier, M/s M.H. Enterprises (GSTIN: 09AJDPH7962C3Z5), without examining whether the goods had actually been supplied and received by the respondent, M/s Deepak Lamination. The Appellant contended that the non-existence of the supplier was only the starting point of the enquiry conducted by the adjudicating authority, which had afforded ample opportunities to the respondent to establish the actual movement and receipt of goods. However, the respondent failed to substantiate the genuineness of the transactions.

3.3 The Appellant further submitted that, under Section 155 read with Section 16(2)(b) of the UPGST Act 2017, the burden of proving eligibility for ITC rested upon the respondent, who had failed to discharge the same before either the adjudicating authority or the First Appellate Authority. The Appellant contended that the learned First Appellate Authority failed to adequately examine the fundamental issue of the actual movement and receipt of goods, despite referring to it in the opening paragraph of its order, and allowed ITC without properly addressing the grounds on which the same had been disallowed in the Order-in-Original.

3.4 The appellant has also uploaded the SIB report dt. 09.11.2021 against the M/s M.H. Enterprises (GSTIN: 09AJDPH7962C3Z5) and discussed the causes for the genuineness of the seller firm and referring for the necessary action against all the 68 buyers who purchased the goods from this particular seller. The information was sent to all the field formations for necessary action.

4. SUBMISSIONS OF THE RESPONDENT

4.1 Per contra Respondent submitted that the Department's appeal was based on the allegation that M/s M.H. Enterprises (GSTIN: 09AJDPH7962C3Z5) was found to be non-existent during the SIB survey dated 09.11.2021. However, the supplier continued to hold an

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active GST registration on the official GST portal, which remained uncancelled during the relevant transaction period from 01.08.2021 to 30.09.2021 and thereafter. The Respondent contended that, in the absence of cancellation of the supplier's registration, the allegation of non-existence was factually erroneous and that the supplier's active registration status could not be disregarded to deny ITC to the Respondent.

4.2 The Respondent further submitted that the allegation of wrongful availment of ITC was contrary to the statutory framework of the UPGST Act 2017, as the supplier, M/s M.H. Enterprises, had duly discharged its tax liability through the filing of GSTR-1 and GSTR-3B returns for the relevant tax periods. It was contended that the supplier had reported the transactions through GSTR-1, reflected the tax liability in GSTR-3B and paid the applicable tax to the Government. Accordingly, the Respondent maintained that the transactions were genuine and that the ITC availed could not be denied merely on the basis of the subsequent survey report.

4.3 The Respondent submitted that, although the Department contended that the supplier had filed a NIL return in GSTR-1, the GST portal mechanism available to the recipient only enabled verification of the supplier's registration status and whether returns had been filed. It did not provide any mechanism for the recipient to ascertain whether the supplier had declared taxable outward supplies or filed NIL returns. Accordingly, the Respondent contended that he had no independent means of verifying the nature of the returns filed by the supplier and had relied upon the supplier's active GST registration and the information available on the GST portal.

4.4 The Respondent accordingly argued that the conditions prescribed under Section 16(2)(c) of the UPGST Act 2017, stood satisfied and that denial of ITC in the absence of evidence establishing the contrary would be unjustified.

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4.5 The respondent relied upon the judicial precedents of the below mentioned case laws-

(i) M/s R.T. Infotech v. Additional Commissioner Grade 2 and Others (Writ Tax No. 1330 of 2022, decided on May 30, 2025), Allahabad High Court.

(ii) M/s Clear Secured Service Private Limited v. The Assistant Commissioner (decided on July 1, 2026, in W.P. No. 23402 of 2026), the Madras High Court.

4.6 Further the respondent prayed for the rejection of the present appeal before this Tribunal.

5. Question of Law-

(i) Whether the impugned order is sustainable in the eyes of law without the discussion of all the facts mentioned in the show cause notice and grounds of appeal to claim ITC under 16 of CGST/SGST Act 2017.

Since there is question of law involved, therefore the case was heard before the Division Bench.

6. Heard and perused the record.

7. FINDINGS

7.1 The appellant submitted that notwithstanding the monetary limit of Rs. 20,00,000/- prescribed under Circular No. 207/1/2024-GST dated 26.06.2024, the matter falls within the exclusion under Para 4(iv)(e) thereof, concerning recurring issues involving interpretation of the Act, Rules, notifications, circulars, orders or instructions. The appeal involves interpretation and application of Section 16(2)(b) of the UPGST Act, 2017, regarding the admissibility of Input Tax Credit (ITC) where the supplier was found to be non-existent, particularly the recipient's obligation to establish the actual movement and receipt of goods. Accordingly, the issue is not confined to the disputed ITC of Rs.

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67,500/- but raises a recurring question concerning the genuineness of supplies and eligibility for ITC. The appellant further relied upon Para 4(vi) of the said Circular, subject to the requisite opinion of the Commissioner, for consideration of the appeal in the interest of revenue.

The Bench has considered the opinion of the Commissioner UPSGST and is of the view that this second appeal must be heard and decided on merit in the interest of revenue. We have perused the grounds of appeal, the written submissions filed by the Appellant and the Respondent, the impugned order passed by the learned First Appellate Authority and the relevant statutory provisions of the UPGST Act, 2017.

7.2 The principal dispute in the present appeal relates to the admissibility of Input Tax Credit availed by the Respondent, M/s Deepak Lamination, on the strength of invoices issued by M/s M.H. Enterprises, which was reportedly found to be non-existent at its declared place of business during the SIB investigation. The dispute essentially concerns the fulfilment of the statutory conditions prescribed under Section 16(2) of the UPGST Act, 2017, particularly the requirement relating to actual receipt of goods under Section 16(2)(b) and the payment of tax to the Government under Section 16(2)(c). The Bench perused the impugned order and noted that the First Appellate Authority confined strictly to the point of existence or non-existence of the supplier firm showing their GSTR on portal and concluded that the supplier firm was active and alive at the time of transaction but in SCN there was a specific allegation that only invoices were generated and tax was paid without movement of goods and alleged ITC was claimed. The Respondent stated before the First Appellate Authority that they have in their possession e way bills and invoices mentioned in para 2 and 5 of grounds of appeal. The First Appellate Authority perused all the documents but there was no verification of these documents under Section 16(2)(b) specifically e way bill, bilty etc. The First Appellate Authority did not give proper weightage to the movement of goods and

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remained confine to whether the GSTN number is active or alive. In this regard the following judgment are important to mention as below-

"MARUTI ENTERPRISES Vs. UNION OF INDIA, SCA NO. 7369 of 2025 with SCA NO. 11022 of 2025, Gujarat High Court dt. 01.05.2026., 2026 SCC OnLine Guj. 4013 has held in the following paras hat -

78. Now, the proposition advanced by the petitioners that the provisions of Section 16 of the CGST Act and the clauses mentioned therein are to be read independently is misconceived. It was contended before us that the Revenue must stop at the stage of clause (b) of sub-section (2) of Section 16 of the CGST Act and, once that exercise is complete, cannot proceed to clause (c). We do not subscribe to the submissions advanced by the petitioners.

79. ITC falls under Chapter V and Section 16 of the CGST Act deals with the eligibility and conditions for availing such credit. The provision itself contains the necessary checks and balances for claiming input tax credit. The first and foremost condition is that a dealer (registered person) must be in possession of a tax invoice or debit note issued by a supplier registered under the Act. The second condition, as stipulated in clause (b), is that the registered person must have received the goods or services or both. This clause further incorporates twin conditions under sub-clauses (i) and (ii), which mandate that the goods are delivered by the supplier to the recipient or to any other person on the direction of the registered person, and that services are provided by the supplier to any person on account of such registered person. Clause (c) further stipulates compliance with the requirement of actual payment of the tax charged to the Government.

80. Thus, the Revenue cannot be directed to stop at clause (b), since eligibility for input tax credit is established only after the receipt of goods or services or both, and upon the tax charged in respect of such supply being duly paid to the Government. A registered person (dealer) cannot be held entitled to claim input tax credit unless all the conditions up to clause (c) are satisfied. As per the provisions of Section 155 of the CGST Act, the burden lies upon the dealer to establish entitlement up to the stage of clause (c), and such benefit cannot be availed by merely satisfying the requirement under clause (b). Hence, the clauses under sub-section (2), from (a) to (d), are to be read conjointly and not independently of each other.

84. This proposition in context of ITC was reiterated in the decision rendered in the case of Kailash Chandra vs. Mukundi Lal, [2002] 2 SCC 678. In paragraph No.11, following has been laid down : "11. A provision in the statute is not to be read in isolation. It has to be read with other related provisions in the Act itself, more particularly, when the subject-matter dealt with in different sections or parts of the same statute is the same or similar in nature."

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(b) The Court must interpret a taxing statute in the light of what is clearly expressed: it cannot imply anything which is not expressed; it cannot import provisions into the statute so as to supply any assumed deficiency.

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c) A provision in the statute is not to be read in isolation; rather, it has to be read along with other related provisions itself, more particularly when the subject matter inter-relates with different Sections or parts of the same statute.

d) A taxing statute is to be interpreted literally, and further, it is in the domain of the legislature as to how much tax credit is to be given under what circumstances.

e) ITC is a form of concession extended to a dealer under the statutory scheme. The concession can be received by the beneficiary only as per the scheme of the statute.

f) Whenever a concession is given by statute or notification, etc., the conditions thereof are to be strictly complied with in order to avail such concession

Sumetco Alloys Pvt. Ltd. Vs. Union of India, D.B. CWP No. 9323/2026 dt. 13.08.2026, Hon'ble Jaipur High Court has held in the following paras that -

15.1. First, sub-section (1) of Section 16 does not create an unqualified right. It confers entitlement expressly "subject to such conditions and restrictions as may be prescribed". The entitlement is therefore conditional at its very source.

15.2. Second, sub-section (2) opens with a non obstante clause and is cast in the negative form. It says that no registered person shall be entitled to credit unless the enumerated conditions are met. In our view, being a negatively worded non-obstante provision, it is mandatory in nature. The conditions in clauses (a), (aa), (b), (ba), (c) and (d) are cumulative and not alternative. Thus, satisfaction of five of them does not dispense with the sixth. The submission that compliance with clauses (a), (aa), (b) and (ba) by itself establishes entitlement, therefore, runs against the plain reading of the provision. If that submission were accepted, clause (c) would be rendered otiose.

15.3. Third, clause (c) does not operate in isolation. It is expressly made "subject to the provisions of section 41". Section 41(2) requires reversal of credit where the supplier has not paid, and the proviso then permits the recipient to re-avail that very credit once the supplier discharges the liability. The denial under clause (c) is, therefore, contingent and reversible, not final and confiscatory.

15.4. Fourth, Section 155 places the burden of establishing eligibility squarely on the person claiming the credit. The claimant must prove entitlement. The revenue is not required to disprove it in the first instance.

16. Taken together, the provisions, ibid, indicate a deliberate allocation of risk. Parliament has chosen to place the risk of supplier default on the recipient, while simultaneously providing a mechanism for restoration of the credit once the default is cured. Whether that allocation is wise or harsh is a question of legislative policy. Most certainly, it is not a question of constitutional validity to be adjudicated by us in the absence of any material to the contrary. Particularly, in light of the fact that benefit of Input Tax Credit is a contingent statutory entitlement, rather than a vested right, much less a constitutional right.

17. On the burden of proof, the position is equally well settled. In State of Karnataka v. Ecom Gill Coffee Trading Private Limited3, it has been held that the burden of proving the genuineness of a transaction for the purpose of claiming input tax credit lies on the purchasing dealer, and that

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mere production of invoices, or payment by cheque, is not by itself sufficient. The dealer must establish the actual physical movement of goods and the genuineness of the transaction.

18. Pertinently, the constitutional validity of Section 16(2)(c) engaged the attention of different High Courts, which took divergent views. The High Court of Gujarat, in Maruti Enterprise v. Union of India, R/Special Civil Application No. 18080 of 2023 and connected matters, decided on 01.05.2026 (High Court of Gujarat), upheld the provision and declined to read it down. That judgment was carried to the Supreme Court and has been duly upheld by way of dismissed the SLP.

19. Hon'ble the Supreme Court, in ***Bhandari Scrap Traders v. Union of India***

3 (2023) 6 SCC 12 4 2026 SCC OnLine SC 1570 held that -

19(4) " In that view of the matter, the High Court was fully justified in holding that no grounds were made out to declare Section 16(2)(c) of the CGST Act as unconstitutional or read down the provisions thereof. We find ourselves in complete and respectful agreement with the views expressed by the High Court of Gujarat and affirm and uphold the impugned judgment."

7.3 To claim ITC under Section 16 Eligibility and conditions for availing input tax credit is produced below-

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

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,-

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

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

(b) he has received the goods or services or both.

[2][Explanation.- For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services-

(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person;]

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[3][(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;]

(c) subject to the provisions of [4][section 41 [5][***]], 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; and

(d) he has furnished the return under section 39:

7.4 Section 16(2)(b) of the UPGST Act, 2017, prescribes actual receipt of goods or services, or both, as one of the essential conditions for entitlement to ITC. Further, Section 155 of the Act places the burden of proving eligibility for ITC upon the person claiming such credit. Consequently, the Respondent was required to substantiate its claim by producing relevant and credible evidence demonstrating that the goods covered by the disputed invoices were actually supplied and received in the course of business. Under Section 155 the burden of proof is upon the claimant that he has completed all the transactions along with valid papers to claim ITC, which were not produced/uploaded by the respondent onto the portal to verify the same besides the instructions of tribunal. The Bench further observes that the issue relating to actual receipt of goods under Section 16(2)(b) is distinct from the issue pertaining to payment of tax to the Government under Section 16(2)(c). The latter condition cannot be treated as a substitute for the former. Even if the supplier's registration remained active and the relevant transactions were reflected on the GST portal, the Respondent must establish fulfilment of the conditions applicable to its claim for ITC, For claiming ITC genuineness of the transaction and actual physical movement of the goods are a *sine qua non* and the aforesaid can be proved only by furnishing the name and address of the selling dealer, details of the vehicle which has delivered the goods, payment of freight charges, acknowledgement of taking delivery of goods, tax invoices and payment particulars etc. The purchasing dealers have to prove the actual physical movement of goods, alleged to have been purchased from the respective dealers. ITC is a form of concession extended to a dealer under the statutory scheme. The

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concession can be received by the beneficiary only as per the scheme of the statute. Whenever the concession is given by statute or notification etc., the conditions thereof are to be strictly complied with in order to avail such concession. The Hon'ble High Court of Punjab and Haryana pronounced the judgement on 1.10.2026 CWP – 34296-2024(O&M other connected cases) has held that *" para 103(vi) The burden under Section 155 of the Act 2017 lies upon the purchasing dealer to establish its eligibility to ITC. The purchasing dealer may discharge the burden by producing material such as the tax invoice; proof of receipt of goods or services, including e-way bills, transport receipts, weighbridge slips and stock and consumption records etc.. The proper officer shall consider such material and deal with it in the order.*

7.5 The Respondent has contended that M/s M.H. Enterprises possessed an active GST registration during the relevant period and that the supplier had filed the prescribed returns and discharged its tax liability. The Respondent has also relied upon the availability of information on the GST portal, the invoices and the banking transactions in support of the genuineness of the purchases. These submissions are relevant to the examination of the claim; however, the existence of a valid GST registration, the issuance of invoices and the payment of consideration through banking channels cannot, in isolation, conclusively establish actual receipt of goods where the genuineness of the underlying supplies is specifically disputed. At the same time, the finding that the supplier was not available at its declared place of business during a subsequent investigation does not, by itself, conclusively establish that no goods were supplied during the relevant transaction period. The evidentiary significance of the SIB report must be assessed in the context of the relevant dates, the nature and scope of the investigation, the supplier's registration and return records, and the other evidence available on record. The claim of ITC must, therefore, be examined on the basis of the cumulative effect of the evidence and the applicable statutory requirements.

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7.6 The judgments cited by the Respondent, namely M/s R.T. Infotech v. Additional Commissioner Grade 2 and Others (Writ Tax No. 1330 of 2022, decided on 30.05.2025) and M/s Clear Secured Service Private Limited v. The Assistant Commissioner (W.P. No. 23402 of 2026, stated to have been decided on 01.07.2026), may be considered after examining their relevant holdings and factual applicability to the present case. The principles laid down in the said decisions, to the extent applicable, must be read in the context of the statutory conditions governing ITC and the evidence available in the present proceedings.

8. The Bench is of the considered view that the First Appellate Authority and the Adjudicating Authority are required to record specific and reasoned findings regarding the movement of goods, after proper examination and verification of the relevant documentary evidence, including tax invoices, e-way bills and other supporting documents. In the present case, the Respondent had specifically stated in its reply to the show cause notice that the documents relating to the movement of goods were available with it. It was further submitted that the relevant tax invoices and e-way bills had been uploaded on the portal and placed before the Adjudicating Authority. However, the Order-in-Original does not disclose any proper consideration of the said documents, nor does it assign cogent reasons as to why the documentary evidence furnished by the Respondent was found insufficient or unreliable to establish the actual movement of goods. The Adjudicating Authority invoked Section 74 of the UPGST Act, 2017, not only on the ground that the supplier firm was allegedly non-existent but also on the allegation that the purchasing firm had wrongly availed Input Tax Credit (ITC) without the actual movement of goods. Once such allegations were levelled, it was incumbent upon the Adjudicating Authority to examine the relevant documentary evidence and record findings, supported by reasons, regarding the genuineness of the transactions and the movement of goods. It is further observed that the First Appellate Authority, while

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passing the impugned Order-in-Appeal, appears to have confined its consideration primarily to the question of whether the GST registration of the supplier was active on the common portal. The said aspect, though relevant, could not by itself be determinative of the Respondent's entitlement to ITC. The authority was also required to examine the tax invoices, e-way bills and other relevant material to ascertain whether the statutory conditions governing the availment of ITC had been fulfilled. The First Appellate Authority was, therefore, required to undertake an independent and comprehensive examination of the claim for ITC in the light of the applicable provisions of Section 16 of the CGST/UPGST Act, 2017, read with the other relevant statutory provisions. Although ITC is an integral feature of the GST framework, intended, inter alia, to avoid the cascading effect of taxation, its availment is subject to the fulfilment of the statutory conditions and requirements prescribed under the Act. Consequently, the claim for ITC must be examined on the basis of the applicable statutory provisions and the evidence available on record. Payment of tax to the Government and the existence or validity of the supplier's registration are relevant considerations; however, the actual receipt of goods and the genuineness of the underlying transactions must also be examined in accordance with law. The movement of goods, wherever material to the dispute, is required to be assessed on the basis of the evidence available on record, including tax invoices, e-way bills, transportation documents and other corroborative material, as well as the judicial pronouncements of the Hon'ble High Courts referred to hereinabove. In the present matter, neither the Order-in-Original nor the Order-in-Appeal reflects an adequate and reasoned examination of the documentary evidence relating to the movement of goods and the fulfilment of the statutory conditions for availment of ITC. The material placed on record has not been dealt with in a manner that enables this Bench to ascertain whether the conclusions arrived at by the authorities below are legally sustainable. In view of the foregoing discussion, the impugned Order-in-Original and the Order-in-Appeal

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cannot be sustained in their present form. The matter, therefore, warrants reconsideration by the Adjudicating Authority after proper verification and evaluation of the relevant documentary evidence and after affording the Respondent an effective opportunity of hearing.

9. ORDER

In view of the findings recorded hereinabove, the appeal is allowed by way of remand, subject to the following directions:

(i) The impugned Order-in-Appeal passed by the First Appellate Authority and the Order-in-Original passed by the Adjudicating Authority are hereby set aside. The matter is remanded to the Adjudicating Authority for fresh adjudication in accordance with law. The authority shall also examine the fulfilment of the applicable statutory conditions for availment of ITC and record specific, clear and reasoned findings on the issues involved.

(ii) The Respondent shall be afforded a reasonable and effective opportunity to produce all relevant documents and supporting evidence concerning the transactions and the movement of goods. The Respondent is directed to place such documents before the Adjudicating Authority for consideration during the fresh adjudication proceedings.

(iii) The appeal stands disposed of in the aforesaid terms.

The Order is pronounced in Open Court.

(Alok Chopra)

(Narendra Kumar)

16.10.26

Date: 16.10.2026

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