GSTAT

State Bench Chandigarh

Division Bench Court No. Court I

APL/14/CHD/2026

BHARAT PACKAGING INDUSTRIES **.....Appellant**

Versus

SUNIL N RANOTE, ADDITIONAL COMMISSIONER APPEALS, CHANDIGARH & ORS. **.....Respondent**

Quorum

Hon'ble Jatinder Pal Singh, Member(Judicial)
Hon'ble Pradeep Kumar Goel, Member (Technical)

Counsel for Appellant

SHRI VIKRANT KACKRIA, ADVOCATE, AND SH. AKHIL PRATAP SINGH, ADVOCATE

Counsel for Respondent

SHRI VEER SINGH MEENA, AC (AUTHORISED REPRESENTATIVE)

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. : ZN040281026000373H **Date of order :** 28/10/2026

1.	GSTIN/Temporary ID/UIN - 04AAIPV5162E1ZP	
2.	Appeal Case Reference no. - APL/14/CHD/2026	Date - 23/05/2026
3.	Name of the appellant - BHARAT PACKAGING INDUSTRIES , anil8729@gmail.com , 9915308080	
4.	Name of the respondant - 1. CGST Commte Chandigarh , prcommr-chd@gov.in , 9810441570 2. SUNIL N RANOTE	
5.	Order appealed against - AD040225001009T	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD0403260020560	Date - 25/03/2026

6.	Personal Hearing - 28/10/2026 16/09/2026 25/08/2026
7.	Order in brief - In view of the discussion and findings recorded hereinabove, we order that: (i) Issuance of a combined / consolidated Show Cause Notice and Order-in-Original covering multiple financial/tax years is legally valid and permissible in law. The proceedings against the Appellant are not liable to be quashed and set aside merely because a combined / consolidated Show Cause Notice and Order-in-Original were issued by the authorities below. (ii) The demand of GST amounting to Rs. 1,30,578/- on the rental income, and imposition of equal penalty thereon under Section 74, is justified and is upheld accordingly. The Appellant will also be liable to pay interest thereon, as per Section 50 of the CGST Act. (iii) The late fee amounting to Rs. 250/- and interest thereon are also upheld. (iv) Section 74 cannot be invoked for demand of tax / recovery of credit or for imposition of penalty, as regards the tax demand of Rs. 30,156/- on freight charges, the alleged ineligible/excess credit of Rs. 2,18,590/-, and the alleged inadmissible 'blocked' credit of Rs. 5,966/-. (v) Regarding the alleged ineligible/excess credit of Rs. 2,18,590/- and the alleged inadmissible 'blocked' credit of Rs. 5,966/-, the matter is referred back to the Adjudicating Authority for deciding the admissibility of ITC afresh in the light of our observations above. (vi) As we have set aside confirmation of demand and imposition of penalty under Section 74 in respect of the amounts mentioned at (iv) above, the proper officer will determine the tax payable, if any, under sub-section 75(2) of the CGST Act, 2017 deeming as if the show cause notice was issued under sub-section 73(1) of the CGST Act, 2017. The appeals are disposed of accordingly.
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	The tax is demandable and the credit is disallowable	
10.	If remanded with directions:	
	a) Remanded to: Adjudicating Authority	

	b) Directions subject to which remanded, if any: In view of the discussion and findings recorded hereinabove, we order that: (i) Issuance of a combined / consolidated Show Cause Notice and Order-in-Original covering multiple financial/tax years is legally valid and permissible in law. The proceedings against the Appellant are not liable to be quashed and set aside merely because a combined / consolidated Show Cause Notice and Order-in-Original were issued by the authorities below. (ii) The demand of GST amounting to Rs. 1,30,578/- on the rental income, and imposition of equal penalty thereon under Section 74, is justified and is upheld accordingly. The Appellant will also be liable to pay interest thereon, as per Section 50 of the CGST Act. (iii) The late fee amounting to Rs. 250/- and interest thereon are also upheld. (iv) Section 74 cannot be invoked for demand of tax / recovery of credit or for imposition of penalty, as regards the tax demand of Rs. 30,156/- on freight charges, the alleged ineligible/excess credit of Rs. 2,18,590/-, and the alleged inadmissible 'blocked' credit of Rs. 5,966/-. (v) Regarding the alleged ineligible/excess credit of Rs. 2,18,590/- and the alleged inadmissible 'blocked' credit of Rs. 5,966/-, the matter is referred back to the Adjudicating Authority for deciding the admissibility of ITC afresh in the light of our observations above. (vi) As we have set aside confirmation of demand and imposition of penalty under Section 74 in respect of the amounts mentioned at (iv) above, the proper officer will determine the tax payable, if any, under sub-section 75(2) of the CGST Act, 2017 deeming as if the show cause notice was issued under sub-section 73(1) of the CGST Act, 2017. The appeals are disposed of accordingly.

Place :CHANDIGARH

Date : 28.10.2026

Signature

CHANDIGARH Jatinder Pal Singh

Designation : Member

Jurisdiction :Chandigarh

ORDER

M/s Bharat Packaging Industries, Plot No. 905-A, Ind Area, Phase 2, Chandigarh, 160002 (hereinafter referred to as "the Appellant"), an entity registered with the CGST Department vide GST No. 04AAIPV5162E1ZP, has filed four appeals (i.e. Appeal Nos. APL/14/CHD/2026 to APL/17/CHD/2026), against Order-in-Appeal No. CHD-CGST-001-APPL-ADC-455 to 458-2025-26 dated 25.03.2026 ("the Impugned Order") passed by the Additional Commissioner (Appeals), CGST, Chandigarh ("the Appellate Authority"). Since all these appeals emanate from the same Impugned Order, they have been heard and taken up for disposal together, on the request of the Appellant's counsel.

2. Before proceeding further, it is relevant to note that that the name of the Respondent in the cause title appearing on the GSTAT Portal is
erroneous. It is seen that the name and designation of the Appellate Authority who has passed the Impugned Order is appearing as the Respondent. However, as per Rule 33(1) of the Goods and Services Tax Appellate Tribunal (Procedure) Rules, 2025, in an appeal filed by a person other than the Commissioner, the Commissioner concerned shall be made the respondent to the appeal. Hence, the cause title of these appeals may be corrected and read as: "M/s Bharat Packaging Industries Vs. Commissioner, CGST, Chandigarh".

3. The Appellant is engaged in manufacture of customized BOPP film. During audit of the Appellant's records for the period from July 2017 to March 2023 conducted by the CGST authorities, certain discrepancies were noticed by the audit team. Accordingly, a Final Audit Report ("FAR") was issued on 18.07.2024, and subsequently a Show Cause Notice dated 29.07.2024 ("the SCN") was issued to the Appellant on various grounds. The SCN was adjudicated upon by the Superintendent, CGST Range-IV, Division-III, Chandigarh ("the Adjudicating Authority"), by passing Order-in-Original No. 06/GST/R-IV/D-III/CHD/2024-25 dated 04.02.2025 ("the OIO"). The Appellant filed four appeals against the OIO dated 04.02.2025 (one for each of the relevant Financial Years covered in the matter). Vide the Impugned Order dated 25.03.2026, the Appellate Authority rejected the appeals filed by the Appellant and upheld the OIO. The Appellant has challenged the Impugned Order, by filing the present appeals.

4. The appeals pertain to the financial years 2017-18, 2018-19, 2020-21 and 2021-22, respectively. The issues raised in these appeals are as under:

i. Whether GST amounting to Rs. 1,30,578/- is liable to recovered from the Appellant on the rental income of Rs. 7,25,436/- reflected in the Appellant's 26-AS Forms, along with interest and penalty;

ii. Whether GST amounting to Rs. 30,156/- (IGST Rs. 152/- and CGST & UTGST Rs.15,002/- each) on freight charges is liable to be recovered under Reverse Charge from the Appellant under Section 74(1) of the CGST Act, 2017, along with interest and penalty;

ii. Whether late fee amounting to Rs. 250/- and interest amounting to Rs. 204/- is payable by the Appellant for FY 2018-19;

iv. Whether the Appellant is liable to reverse ineligible / excess credit of Rs. 2,18,590/- along with applicable interest under Section 50 of the CGST Act, 2017;

v. Whether the Appellant is liable for imposition of penalty under Section 74(1) of the CGST Act, 2017 read with the similar provisions made applicable to the IGST Act, 2017 and the UTGST Act, 2017 by virtue of Section 20 and 21 of the said Acts respectively;

vi. Whether the Appellant is liable for reversal of blocked credit to the tune of Rs. 5,966/- under Section 74 of the CGST Act 2017, along with interest and penalty;

vii. Whether the Impugned Order is liable to be quashed on the ground that a combined / consolidated Show Cause Notice and Order-in-Original covering multiple financial / tax years was issued by the GST authorities.

5. We have heard Sh. Vikrant Kackria, Ld. Advocate for the Appellant. We have also heard Sh. Veer Singh Meena, Ld. AR for the Department, who has reiterated the findings of the authorities below. We have considered the facts of the case and the documents on record, and have also duly considered the arguments advanced by both sides.

6. Regarding the demand of GST amounting to Rs. 1,30,578/- on the rental income received during financial years 2017-18 and 2018-19, the Appellant has contended that the rent was received for a property situated in Dera Bassi, Punjab. The Appellant has contended that as per Section 12(3) of the IGST Act, 2017, the place of supply in relation to an immovable property would be the location at which the said immovable property is located or intended to be located. Since the immovable property from which the rent has been received is situated in the State of Punjab, the GST Authority at Chandigarh has no jurisdiction to demand GST thereon.

7. We are of the view that this argument is of no assistance to the Appellant's case. It may be that the immovable property is located in Punjab, and hence the place of supply of the renting service is Punjab. However, for the purpose of jurisdiction of the GST authorities, it is the location of the supplier of such service (i.e. the location of the owner of the immovable property) which is relevant. Clause (a) of Section 2(71) of the CGST / SGST Act, 2017, and of Section 2(15) of the IGST Act, 2017, defines the term "location of the supplier of services" as follows:

"location of the supplier of services" means,—

(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;"

8. The Appellant's place of business for which it has taken GST registration is located in Chandigarh. Hence, the renting of immovable property service has to be treated as having been made **from** the Appellant's place of business in Chandigarh. Moreover, the Appellant has itself taken GST registration with the GST authorities in Chandigarh.

9. The fact that the place of supply (i.e. the location of the property) is in another State will only mean that the supply will be treated as an inter-State supply and IGST will be attracted thereon. The fact that the place of supply (i.e. the location of the property) is in another State does not take away the jurisdiction of the CGST authorities of Chandigarh over the Appellant, as the Appellant has its place of business in Chandigarh and has taken registration with the CGST authorities in Chandigarh.

10. At Para 6.2 of the Impugned Order, the Appellate Authority has recorded his discussion and findings on this issue. We are of the view that the said discussions and findings are liable to be upheld, and that the demand of GST raised by the GST authorities in Chandigarh on the rent received by the Appellant cannot be struck down for want of territorial jurisdiction.

11. Regarding the demand of GST amounting to Rs. 30,156/- raised on reverse charge basis on the freight amount, the Appellant has contested the demand only on limitation. The Appellant has submitted there was no suppression, fraud or wilful misstatement on the part of the Appellant, hence Section 74 could not have been invoked for the said demand. We will deal with the ground regarding applicability of Section 74 herein below.

12. The late fee amounting to Rs. 250/- and interest thereon amounting to Rs. 204/- has also been contested only on the ground of applicability of Section 74. We find that this ground is not relevant in so far as late fee and interest are concerned, as Section 74 applies only for

demand of tax and imposition of penalty. Hence, the Appellant's contention in this regard is rejected.

13. As regards excess availment of ITC amounting to Rs. 2,18,590/- (IGST: Rs.1,87,250/-, CGST: Rs.15,670/- & SGST: Rs.15,670/-), the Appellant has claimed that the said credit has already been reversed while filing the Annual Return, by depositing vide DRC-03 No. AD040122000555V dated 26.01.2022. It is contended that when the Adjudicating Authority has himself accepted that the credit stood reversed there was no reason to invoke Section 74 or impose penalty. We will take up and deal with the ground regarding applicability of Section 74 herein below.

14. Without prejudice to the above ground, the Appellant has further submitted that when the services have been used for providing a taxable service, the credit cannot be disallowed merely on the ground that the invoices were not reflected in Form GSTR-2A. As the Appellant has fulfilled all the conditions as specified under the CGST Act, credit cannot be denied to them. The Appellant has relied upon the decision of Hon'ble Calcutta High Court in the case of *Suncraft Energy Pvt. Ltd. and another Versus Assistant Commissioner, State Tax Bally gunge Charge reported as 2023 (77) GSTL 55 (Cal)* to contend that credit of ITC cannot be denied merely on the ground that the invoices are not reflected in GSTR-2A Returns. The Appellant submits that the said judgment has been upheld by the Hon'ble Supreme Court in the case of *Assistant Commissioner, State Tax Bally gunge Charge versus Suncraft Energy Pvt. Ltd. and another 2024 (80)GSTL 225(S.C.),* and thus the issue has attained finality and credit cannot be disallowed on this count.

15. We are of the view that the ITC should be allowed to the Appellant if the conditions of Section 16 are fulfilled, regardless of whether it is reflected in Form GSTR 2A or not. To this extent, the matter needs to be referred back to the Adjudicating Authority to consider the Appellant's claim for ITC on merit.

16. The Appellant has also argued that Courts had earlier also held in a number of cases in the context of VAT and other Acts that credit cannot be denied to the recipient of service if the tax on the said services has not been paid by the supplier of service. The Appellant has also cited some case law in this regard. However, we note that in the Appeal Memo, the Appellant has stated that there is no allegation in the show cause notice to the effect that the supplier of service has not paid the tax on the said goods/services. We also note that the Adjudicating Authority has not even denied the credit on this ground. Hence, we do not feel it necessary to address this ground.

17. The Appellant has also claimed that the entire excess ITC of Rs. 2,18,590/- (IGST: Rs.1,87,250/-, CGST: Rs.15,670/- & SGST: Rs.15,670/-) had already been deposited while filing the Annual Return. However, at Para 4.3 of the OIO the Adjudicating Authority has recorded a specific finding that: *"However, on perusal of DRC-03, it is observed that the Noticee has deposited only IGST along with interest and no CGST and UTGST has been paid by them."* Accordingly, at Para 5.1(i) of the OIO, the Adjudicating Authority has appropriated the IGST of Rs.1,87,250/- already deposited by the Appellant.

18. The liability to reverse blocked credit amounting to Rs. 5,966/- has been contested by the Appellant on the ground of limitation. It is also contended that ITC pertaining to only one invoice of M/s Onkar Tyre House (Invoice no. 3325 dated 29.06.2021) has been disallowed due to non-availability of the invoice at the time of audit. The Appellant claims that they had subsequently produced a copy of the invoice. We do not find any findings of the Adjudicating Authority in this regard. We are of the view that the ITC has to be considered by the Adjudicating Authority on merit, if the invoice is now available as claimed by the Appellant. The matter needs to be referred back to the Adjudicating Authority, to consider the Appellant's claim on merit.

19. We will now take up and deal with two legal grounds raised by the Appellant. The first ground is that a composite SCN was issued and a consolidated order was passed for various Financial Years, which is not legally permissible under law. The Appellant has contended that the Department ought to have issued a separate SCN for each Financial Year, and has relied upon certain judicial precedents in this regard, including *Milroc Good Earth Developers Vs. Union of India 2026 (104) G.S.T. 45 (Bom.)*

20. We have already dealt with this issue at length in our order dated 16.10.2026 passed in Appeal No. APL/13/CHD/2026 [*RLCR 7 Super Market Vs. Sunil N Ranote, Additional Commissioner (Appeals), Chandigarh & Ors. 2026 (10) TMI 1223*]. Paras 6 to 17 of the said order dated 16.10.2026 refer in this regard. In the interest of brevity, we are not reproducing these paras here. Following our decision in the case of *RLCR 7 Super Market (supra),* we reject the Appellant's contention that the Impugned Order is liable to be quashed on the ground that a combined SCN and OIO was issued for multiple financial / tax years.

21. We now take up the second legal ground, namely, that Section 74(1) cannot be invoked in the present case. The Appellant has submitted that Section 74 cannot be invoked in the present case as the Appellant has not suppressed any facts with mala fide intention, and as the Appellant has been of the bona fide belief that ITC has been correctly availed in Form GSTR-3B. The Appellant has also contended that the applicability of Section 74 is dependent on the

presence of a predetermined mind to escape tax or avail ITC, by way of fraud or suppression or misstatement, and that the expression 'appears to the proper officer' preceding such determination of evasion of tax/ availment of credit requires proper application of mind by the proper officer. Such determination cannot be a casual act, but as a result of proper assessment of facts of by the officer. In the present case, the Department has failed to establish the allegation of suppression of facts by the Appellant, it is contended.

22. We find that the principles for invoking Section 74 for demand of tax and imposition of penalty under extended period of limitation in cases of non-payment / short-payment of tax or erroneous refund or wrong availment of ITC by reason of fraud or any wilful-misstatement or suppression of facts to evade tax, are laid down in law very clearly..

23. More recently, in the case of *M/s Tata Steel Limited Versus Union of India [2026 (8) TMI 1587]* relied upon by the Appellant, the Hon'ble Supreme Court has held as under:

"14. It is not mere lip service to the provisions that is intended when an extended limitation period is provided for recovering an excess benefit availed, short payment or excess refund, from the assessee, especially when the allegation is of fraud/willful misrepresentation/suppression. The foundational facts which led to the inference arrived at of fraud/willful misrepresentation/ suppression should be evident from the notice itself. The mere employment of such words will not indicate an application of mind, upon which alone the satisfaction can be arrived at. The words are not to be mechanically recited in the notice to enable recovery outside the normal limitation provided under the statute."

24. The grounds for invoking Section 74 in the present case are given in para 11 of the SCN dated 29.07.2024. With respect to the GST demand of Rs. 30,156/- on freight charges, the ineligible/excess credit of Rs. 2,18,590/-, and the blocked credit of Rs. 5,966/-, it is evident that the SCN does not contain any allegation which establishes as to how the Appellant had committed fraud or made wilful mis-statement or suppressed facts with intent to evade tax by availing inadmissible ITC. The relevant amounts were duly declared in their statutory returns, on the basis of which audit was conducted by the Department and the demand of tax was raised.

25. The difference between GSTR 3B and 2A returns was always there in the statutory returns and the Department has not alleged that availment of ITC under wrong head was intentional to evade tax by taking any benefit not admissible under the law. We do not, therefore, find anything justifying demand of duty and imposition of penalty under Section 74 of the Act, as far as the amounts mentioned in Para 24 above are concerned.

26. The demand of Rs. 2,18,590/- due to the ineligible / excess credit is on account of difference between ITC availed in Form 3B vis a vis credit available in Form 2A. While recording his findings on the ineligible / excess credit of Rs. 2,18,590/-, the Adjudicating Authority has recorded at Para 4.3 of the OIO that:

"However, on perusal of calculation sheet, I find that in the previous years the Noticee has not availed total CGST and UTGST in GSTR-3B as available in GSTR-2A which would have been availed in subsequent years. Therefore, I hold that this exercise of availment of GST credit is revenue neutral." *(emphasis added)*

Having held that this exercise of availment of GST credit is revenue neutral, the Adjudicating Authority was not justified in invoking Section 74 for demand of tax and imposition of penalty on this amount.

27. However, as far as the demand of GST amounting to Rs. 1,30,578/- is concerned, we are of the view that invoking of Section 74 is justified and liable to be sustained. This demand pertains to GST payable by the Appellant on the rental income of Rs. 7,25,436/-. The fact that the said amount was received as rent has not been contested by the Appellant. The Appellant has also not contended that GST was not attracted on the rental income on merits. In fact, the Appellant has contested this demand only on the ground of territorial jurisdiction.

28. Further, the GST audit team detected receipt of the rental amount from the Appellant's Income Tax 26-AS Forms. The Appellant has not even claimed that this amount was declared in their GST returns. As per Explanation 2 to Section 74, the expression "suppression" shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder. The fact that receipt of the rental income was not declared in the GST returns amounts to suppression of facts, attracting Section 74. Hence, the demand of GST amounting to Rs. 1,30,578/- and imposition of equal penalty thereon under Section 74 has to be sustained.

CONCLUSION & ORDER

29. In view of the discussion and findings recorded hereinabove, we order that:

(i) Issuance of a combined / consolidated Show Cause Notice and Order-in-Original covering multiple financial/tax years is legally valid and permissible in law. The proceedings against the Appellant are not liable to be quashed and set aside merely because a combined / consolidated Show Cause Notice and Order-in-Original were issued by the authorities below.

(ii) The demand of GST amounting to Rs. 1,30,578/- on the rental income, and imposition of equal penalty thereon under Section 74, is justified and is upheld accordingly. The Appellant will also be liable to pay interest thereon, as per Section 50 of the CGST Act.

(iii) The late fee amounting to Rs. 250/- and interest thereon are also upheld.

(iv) Section 74 cannot be invoked for demand of tax / recovery of credit or for imposition of penalty, as regards the tax demand of Rs. 30,156/- on freight charges, the alleged ineligible/excess credit of Rs. 2,18,590/-, and the alleged inadmissible 'blocked' credit of Rs. 5,966/-.

(v) Regarding the alleged ineligible/excess credit of Rs. 2,18,590/- and the alleged inadmissible 'blocked' credit of Rs. 5,966/-, the matter is referred back to the Adjudicating Authority for deciding the admissibility of ITC afresh in the light of our observations above.

(vi) As we have set aside confirmation of demand and imposition of penalty under Section 74 in respect of the amounts mentioned at (iv) above, the proper officer will determine the tax payable, if any, under sub-section 75(2) of the CGST Act, 2017 deeming as if the show cause notice was issued under sub-section 73(1) of the CGST Act, 2017.

30. The appeals are disposed of accordingly.

(Jatinder Pal Singh)

(Pradeep Kumar Goel)

Dated: 28.10.2026