GSTAT

State Bench Prayagraj

Division Bench Court No. I

APL/8/ALB/2026

M/S SARTHAK TRADERS **.....Appellant**

Versus

COMMISSIONER UTTAR PRADES STATE TAX, GRADE -2 (APPEAL) IST, CIVIL LINES GST PRAYAGRAJ & ORS. **.....Respondent**

Quorum

Hon'ble Mahtab Ahmad, Member(Judicial)
Hon'ble Ashish Varma, Member (Technical)

Counsel for Appellant
ARUN KUMAR KUSHWAHA

Counsel for Respondent
SMT VIBHA MISHRA, DC/SR, STATE TAX
SHRI SUNEEL KUMAR NIRMAL, AC/ASR, STATE TAX

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

Whether remand order : No

Order reference no. : ZA090411026000093H **Date of order :** 29/10/2026

1.	GSTIN/Temporary ID/UIN - 09AGVPJ4923C1Z7	
2.	Appeal Case Reference no. - APL/8/ALB/2026	Date - 08/06/2026
3.	Name of the appellant - M/S SARTHAK TRADERS, sarthaktraders2011@gmail.com ,9838944036	

4.	Name of the respondent - 1. Shri Prakash Yadav Joint Commissioner(IT) State Tax Headquarters Lucknow , ctithqlu-up@nic.in , 7235002314 2. Commissioner State Tax, Uttar Pradesh	
5.	Order appealed against - AD091124020834A	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD090225071423I	Date - 06/02/2025
6.	Personal Hearing - 29/10/2026, 13/10/2026, 07/10/2026, 28/09/2026, 18/08/2026	
7.	Status of Order under Appeal - Reject - Order under Appeal is annulled	
8.	Order in brief - The appeal is allowed.	
	Summary of Order	
9.	If demand order then whether demand quantified: No	

Place :PRAYAGRAJ

Date : 29.10.2026

Shri Pankaj Yadav

Designation : Legal Assistant/Stenographer

Jurisdiction :Prayagraj

Per: Shri Ashish Varma, Technical Member

JUDGEMENT

A. BRIEF FACTS OF THE CASE

The appellant

1. This appeal under Section 112 of the CGST/UPGST Act, 2017 has been filed by Smt. Kanak Lata Jaiswal, Proprietor of M/s Sarthak Traders, against Order-in-Appeal No. ZD0902250714231 dated 06.02.2025 passed by the Additional Commissioner Grade-II (Appeals)-First, State Tax, Prayagraj. The dispute relates to Financial Year (FY) 2019-20, i.e. 01.04.2019 to 31.03.2020.

2. M/s Sarthak Traders is a proprietorship concern registered under the GST law with effect from 01.07.2017 and is engaged in wholesale and retail trade, including mobile recharge services and the sale of SIM cards, mobile phones and accessories. Its registered address is 161/17, Kashi Raj Nagar, Katghar, Prayagraj, Uttar Pradesh – 211003.

Show Cause Notice

3. On scrutiny of the returns, a notice under Section 61 in Form ASMT-10 was issued on 19.02.2024. No reply was filed. A Show Cause Notice (SCN) under Section 73(1) of the CGST/UPGST Act, 2017 was then issued on 06.05.2024 for FY 2019-20, alleging two discrepancies:

   a) **Input Tax Credit (ITC):** ITC of ₹1,11,353.40 was available in FORM GSTR-2A, whereas ₹3,04,303.37 was claimed in FORM

GSTR-3B. This resulted in alleged excess availment/utilisation of ITC of ₹1,92,949.93.

b) **Output tax:** The tax liability per FORM GSTR-1 was ₹80,269.86, whereas the tax declared and paid in FORM GSTR-3B was ₹72,697.42. This resulted in a short payment of ₹7,572.44.

4. The SCN proposed recovery of these amounts with interest under Section 50 and penalty under Section 73 read with Rule 142.

Order-in-Original

5. The appellant filed no reply to the notice under Section 61 or to the SCN. She states that her erstwhile accountant did not inform her of these notices. The State Tax Officer, Sector-05, Prayagraj accordingly passed an ex parte Order-in-Original (OIO) under Section 73(9) on 16.08.2024 (Ref. No. ZD0908241339217). Noting that no reply or document had been filed, the officer held that the findings of scrutiny stood unrefuted. He confirmed both discrepancies and created a total demand of ₹3,76,610.58, made up as follows:

Particulars	**CGST (₹)**	**SGST (₹)**	**Total (₹)**
Tax	1,00,261.18	1,00,261.18	2,00,522.36
Interest	78,018.00	78,018.00	1,56,036.00
Penalty	10,026.11	10,026.11	20,052.22
Total	**1,88,305.29**	**1,88,305.29**	**3,76,610.58**

First appeal

6. The appellant filed a first appeal in FORM GST APL-01 on 07.11.2024 (Appeal No. AD091124020834A) before the Additional Commissioner Grade-II (Appeals)-First, State Tax, Prayagraj. Her main contentions were:

a) She accepted the output tax difference of ₹7,572.44 and paid it along with the pre-deposit of ₹19,295. The appeal was thus confined to the ITC demand.

b) In FY 2018-19, ITC of ₹2,64,246.56 was available in FORM GSTR-2A, but only ₹42,340.94 was claimed in FORM GSTR-3B, leaving ₹2,21,905.62 unavailed. This credit was claimed in the returns for FY 2019-20, within the time allowed by Sections 16(4) and 39(9) of the CGST/UPGST Act, 2017. It explains the apparent excess when GSTR-3B of FY 2019-20 is compared with GSTR-2A of FY 2019-20 alone.

c) GSTR-2A/GSTR-3B reconciliation charts and itemised invoice details for FY 2018-19 and FY 2019-20 were filed as evidence.

d) The OIO ignored the evidence available on the portal and was arbitrary.

Order-in-Appeal

7. The First Appellate Authority (FAA), Shri Om Prakash Tiwari, dismissed the appeal by Order-in-Appeal No. ZD090225071423I dated

06.02.2025 (Summary in FORM GST APL-04). The FAA recorded that hearing notices were issued for 02.12.2024, 09.01.2025 and 25.01.2025, but the appellant neither appeared nor sought an adjournment, and the appeal was therefore decided ex parte on the records.

8. On merits, the FAA relied on CBIC Circular No. 183/15/2022-GST. He held that where ITC claimed in GSTR-3B exceeds that reflected in GSTR-2A, credit can be allowed only after verification of tax payment, and that for discrepancies above ₹5 lakh a certificate from a Chartered Accountant (CA) or supplier certificates were required. He observed that the appellant had filed only self-prepared GSTR-2A/GSTR-3B charts, without CA or supplier certificates, and had not appeared for physical verification. The OIO was upheld in full, confirming tax of ₹1,92,950, interest of ₹1,56,036 and penalty of ₹20,052.

Appeal before the Tribunal

9. The present appeal, in FORM GST APL-05, was filed on 03.06.2026. The grounds taken are:

a) Under Section 107(12) of the UPGST Act, 2017, the FAA must pass a reasoned order on merits after examining the electronic records on the common portal, and cannot dismiss an appeal merely for the appellant's absence. The appellant relies on *SFC Global Commodity Pvt. Ltd. v. Union of India* (Gujarat High Court, 2026), *M/s ST Antony Trading and Transport Pvt. Ltd. v. Joint Commissioner* and *M/s Purushottam Stores v. State of Bihar* (Patna High Court).

b) The GST system is electronic and paperless, and the portal records carry evidentiary value under Section 143 of the Bharatiya Sakshya Adhiniyam, 2023. Had the authorities verified the portal data, no demand could have been sustained.

c) The personal hearing under Section 75(4) is a protective right, and its non-use is not an admission of liability.

d) The proceedings are vitiated by non-application of mind and arbitrary exercise of power.

e) The demand, interest and penalty are illegal and excessive.

f) The order violates the principles of natural justice.

10. The appellant prays that the Order-in-Appeal be quashed and set aside, that the demand of ₹1,92,949.93 along with the corresponding interest and penalty on the ITC dispute be deleted, and that any other order the Tribunal deems fit be passed.

11. In the course of hearing, and in her written submission dated 08.10.2026, the appellant further contended that the ITC in dispute is credit of FY 2018-19 which was validly claimed in the returns of FY 2019-20 under Sections 16(4) and 39(9) of the CGST/UPGST Act, 2017, and that the FAA's reliance on Circular No. 183/15/2022-GST was misplaced. The written submission dated 08.10.2026 was checked by the bench and departmental representatives.

B. ISSUES FOR DETERMINATION

12. The following issues arise for determination:

i) Whether the FAA erred in law in dismissing the appeal ex parte on account of non-appearance, contrary to Section 107(12) of the UPGST Act, 2017, which requires the appeal to be decided on merits by a reasoned order.

ii) Whether the FAA misapplied CBIC Circular No. 183/15/2022-GST by requiring CA or supplier certificates for a cumulative discrepancy of less than ₹2 lakh, where no supplier default was alleged or established.

iii) Whether the ITC of ₹1,92,949.93 claimed in FORM GSTR-3B for FY 2019-20 is a valid claim of credit of FY 2018-19 omitted earlier and availed within the time allowed by Sections 16(4) and 39(9) of the CGST/UPGST Act, 2017.

C. DISCUSSION AND FINDINGS

We have gone through the written and oral submissions and the records of the case.

I. The order of the First Appellate Authority

13. The appellant contends that the authorities did not verify the data available on the portal. We do not agree with this contention as stated. The Order-in-Appeal records that the FAA perused the order of the adjudicating officer and the appeal, noted that the adjudicating officer had scrutinised the returns for FY 2019-20, and perused the comparison chart available on the portal showing the difference between ITC in GSTR-2A and GSTR-3B and between GSTR-1 and GSTR-3B.

14. However, in her appeal to the FAA the appellant had specifically claimed that the difference in ITC arose because FY 2018-19 credit was claimed in FY 2019-20 within the time permitted by Sections 16(4) and 39(9). This claim goes to the root of the matter, but the FAA has not dealt with it anywhere in the order.

15. Section 107(11) and (12) of the UPGST Act, 2017 provide:

> *"(11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order: ... (12) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision."*

16. The jurisdictional High Court has considered these provisions in *M/s Archita Tour and Travels v. State of U.P.*, Writ Tax No. 226 of 2024, decided on 01.10.2024 ((2024) 10 ILRA 201), where it held:

> *"Sub-section (12), it has to be further emphasized, also requires the order of the Appellate Authority disposing of the appeal to be in writing and specifically stating the points for determination, the decision thereon and the reasons for such decision."*

17. The same principle was applied by the Patna High Court in *M/s Purushottam Stores v. State of Bihar* (CWJC No. 4349 of 2023) and by the Gujarat High Court in *M/s SFC Global Commodity Private Limited v. Union of India* (Special Civil Application No. 1553 of 2026). Both Courts held that an appellate authority cannot dismiss an appeal merely because the appellant did not appear, and must examine the grounds taken in the appeal memo and pass a reasoned order.

18. By not addressing the appellant's core claim regarding FY 2018-19 credit, the FAA passed a non-speaking order, which cannot be sustained in law. Issue (i) is answered accordingly.

19. Section 113(1) empowers this Tribunal to remand a matter for fresh decision. However, the demand relates to FY 2019-20, the entire material is on record, and the only ground of the demand is a mismatch between GSTR-2A and GSTR-3B. We therefore proceed to decide the matter on merits.

II. Demand based on mismatch between* GSTR-*2A and GSTR-3B

20. The demand rests solely on the difference between the auto-populated GSTR-2A and the GSTR-3B for FY 2019-20. The CBIC, by its Press Release dated 18.10.2018, clarified that GSTR-2A is in the nature of taxpayer facilitation and does not affect the ability of a taxpayer to avail ITC on self-assessment in accordance with Section 16 of the Act. Further, the requirement of reflection of the invoice in the recipient's statement as a condition for ITC, contained in Section 16(2)(aa), was inserted only with effect from 01.01.2022 and does not apply to the period in dispute.

A demand founded only on a GSTR-2A/GSTR-3B mismatch, without verifying the taxpayer's explanation, cannot be sustained.

21. This view is supported by the decisions in *M/s Diya Agencies v. State Tax Officer* (Kerala High Court, 2023:KER:55318), where it was held that ITC cannot be denied merely because the tax does not appear in GSTR-2A if the claim is bona fide and the tax is shown to have been paid, and in *M/s Suncraft Energy Private Limited v. Assistant Commissioner, State Tax* (Calcutta High Court, MAT 1218 of 2023), where it was held that tax authorities cannot automatically reverse input tax credit (ITC) claimed by a bona-fide buyer simply because of a mis-match between Form GSTR-2A and Form GSTR-3B caused by a defaulting supplier.

III. Applicability of Circular No. 183/15/2022-GST

22. The Circular was issued as a limited relaxation. Its main features are:

(a) It applies to ITC discrepancies pertaining to FY 2017-18 and FY 2018-19.

(b) It applies where invoices are missing or mismatched in GSTR-2A because of supplier-side failures, such as the supplier filing GSTR-3B but not GSTR-1, omitting an invoice in GSTR-1, reporting a B2B supply as B2C, or entering a wrong GSTIN.

(c) Where the discrepancy per supplier exceeds ₹5 lakh, a certificate from a CA or Cost Accountant that the supplier has paid the tax is required. Where it is ₹5 lakh or less, a certificate from the supplier is sufficient.

23. The Circular does not apply to the present case, for the following reasons:

(a) The comparison made in the proceedings is between GSTR-3B of FY 2019-20 and GSTR-2A of FY 2019-20 alone, whereas the Circular deals with mismatches of FY 2017-18 and FY 2018-19.

(b) There was no supplier reporting error. The suppliers had uploaded the invoices and the FY 2018-19 credit of ₹2,64,246.56 was fully reflected in GSTR-2A. No supplier default was alleged.

(c) The difference in FY 2019-20 arose because the appellant, as recipient, availed credit of FY 2018-19 which had been omitted earlier, within the time allowed under Sections 16(4) and 39(9). This is not a supplier mismatch of the kind covered by the Circular.

(d) Even if the Circular were applied, the entire disputed amount across all suppliers is ₹1,92,949.93. No single supplier's discrepancy could therefore exceed ₹5 lakh, and a CA certificate could not have been demanded.

24. The FAA thus erred in relying on Circular No. 183/15/2022-GST and in treating a recipient's claim of earlier-year credit as a supplier default. Issue (ii) is answered accordingly.

IV. Verification of the ITC claim

25. At the hearing on 07.10.2026, the Bench directed the appellant to produce invoice-wise details showing how the ITC of FY 2018-19 was claimed in the returns of FY 2019-20. The appellant filed a submission dated 08.10.2026, together with GSTR-2A reports for FY 2018-19 and FY

2019-20 (with markings), screenshots of the Tax Comparison Table for both years, and copies of GSTR-3B for April 2019 and July 2019. The GSTR-2A reports were downloaded by appellant through third-party software and have been cross-checked with the Tax Comparison Table screenshots.

26. The submission shows the following:

(a) **FY 2018-19 credit.** The total ITC reflected in GSTR-2A for FY 2018-19 was ₹2,64,246.56 (IGST ₹32,861.36, CGST ₹1,15,692.60 and SGST ₹1,15,692.60). Against these invoices, ₹35,065.92 was claimed in GSTR-3B for September 2018, leaving ₹2,29,180.64 unclaimed. A further ₹7,275.00 claimed in October 2018 is not reflected in GSTR-2A. It relates to FY 2018-19, is not before us in this appeal, and explains why the carried-forward figure at the first appeal stage was ₹2,21,905.62.

(b) **Claim in FY 2019-20.** In April 2019, ₹17,698.50 (IGST) was claimed, which corresponds to Serial No. 5 of the FY 2018-19 GSTR-2A (M/s Anand Interiors). In July 2019, total ITC of ₹2,69,791.29 was claimed, of which ₹2,11,044.32 related to FY 2018-19 invoices at Serial Nos. 6 to 19 (such as M/s G S Packaging Machines, M/s Jain Electric (Sales) and M/s Sahu Sales Corporation) and ₹58,746.82 related to FY 2019-20 invoices at Serial Nos. 2 to 13 of the FY 2019-20 GSTR-2A. The balance of ₹437.82 was allowed to lapse. Thus, ITC of ₹2,28,742.82 pertaining to FY 2018-19 was claimed in FY 2019-20.

(c) **Time limit.** Under Section 16(4), as it stood at the relevant time, ITC on invoices pertaining to a financial year could be availed up to the due date of the return for September following the end of that financial year (or the filing of the annual return, if earlier). Section 39(9) likewise permits rectification of an omission only up to the same point. The GSTR-3B returns for April 2019 and July 2019 were filed on 28.05.2019 and 24.08.2019 respectively, well before the due date of the September 2019 return.

(d) **Overall position.** The total ITC claimed in GSTR-3B for FY 2019-20 was ₹3,04,311.37. Of this, ₹2,28,742.82 was FY 2018-19 credit, and the balance, of about ₹75,500, was traced to FY 2019-20 invoices reflected in the GSTR-2A of that year. The credit available in GSTR-2A for the two years taken together, after excluding what was already claimed or lapsed, was ₹3,40,286.58. The ITC claimed therefore remained within the credit reflected in GSTR-2A. The difference of about ₹35,975 (about ₹35,785 after adjusting credit notes) is credit that the appellant did not claim.

27. The figures in the submission match, in all material respects, the GSTR-2A reports, the Tax Comparison Table screenshots, the itemised invoice lists and the GSTR-3B returns. The invoice serial numbers, supplier GSTINs and tax amounts have been traced to returns filed within the permitted time. The SCN alleged only a mismatch between GSTR-2A and GSTR-3B. It made no other allegation, such as ineligibility of credit under Section 16(2) or Section 17(5), or suppression, and no such question has been examined here.

28. The apparent excess of ₹1,92,949.93 has thus arisen only because the GSTR-3B of FY 2019-20 was compared with the GSTR-2A of FY 2019-20 alone, ignoring FY 2018-19 credit that was validly availed in FY 2019-20. The claim is a valid availment of omitted credit within the time allowed by Sections 16(4) and 39(9). Issue (iii) is answered in favour of the appellant.

29. The appellant's reconciliation of the two years was not before the FAA in this invoice-wise form. We have, however, verified it ourselves for the reasons recorded above, and it removes the objection on which the FAA upheld the demand.

D. ORDER

30. In view of the above, this Tribunal passes the following order:

(i) Order-in-Appeal No. ZD090225071423I dated 06.02.2025 and the Order-in-Original dated 16.08.2024 (Ref. No. ZD0908241339217) are set aside to the extent of the ITC demand of ₹1,92,949.93.

(ii) The demand of tax, interest and penalty relating to the said ITC demand is quashed.

(iii) The output tax of ₹7,572.44, which the appellant has accepted and paid, is not disturbed. Interest and penalty, if any, attributable to that amount are likewise not affected by this order.

(iv) The appellant shall be entitled to consequential relief as per law, including refund of the pre-deposit made for admission of the appeal, with interest under Section 115.

(v) The appeal is allowed to the above extent.

31. There shall be no order as to costs. The appeal stands disposed of accordingly.

(Ashish Varma)
Technical Member

(Mahtab Ahmad)
Judicial Member

Dated: 29.10.2026

The judgement is signed, dated and pronounced today in the open court.

(Ashish Varma)
Technical Member

(Mahtab Ahmad)
Judicial Member

Dated: 29.10.2026

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