GSTAT

State Bench Prayagraj

Division Bench Court No. I

APL/11/ALB/2026

M AND S **.....Appellant**

Versus

COMMERCIAL TAX OFFICER SECTOR 2 PRAYAGRAJ UTTAR PRADESH, COMMERCIAL TAX OFFICER, COMMERCIAL TAX OFFICER SECTOR 2 PRAYAGRAJ UTTAR PRADESH & ORS. **.....Respondent**

Quorum

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

Counsel for Appellant

RAJESH MISHRA
ARYAN MISHRA

Counsel for Respondent

SMT VIBHA MISHRA DC, STATE TAX/ STATE REPRESENTATIVE
SHRI SUNEEL KUMAR NIRMAL AC, STATE TAX/ STATE 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 : No

Order reference no.: ZA090411026000100H **Date of order:** 30/10/2026

1.	GSTIN/Temporary ID/UIN - 09BLHPP0910K1ZZ	
2.	Appeal Case Reference no. - APL/11/ALB/2026	Date - 11/06/2026
3.	Name of the appellant - M And S, shyampandey487@gmail.com, 9026474749	

4.	Name of the respondent - 1. Shri Prakash Yadav Joint Commissioner(IT) State Tax Headquarters Lucknow , ctithqlu-up@nic.in , 7235002314 2. Commercial Tax Officer Sector 2 Prayagraj Uttar Pradesh 3. Additional Commissioner Grade II Appeal Prayagraj (A) Uttar Pradesh	
5.	Order appealed against - AD0912240158832	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD090526095348S	Date - 12/05/2026
6.	Personal Hearing - 30/10/2026 16/10/2026 12/10/2026 08/10/2026 29/09/2026 19/08/2026	
7.	Status of Order under Appeal - Reject - Order under Appeal is annulled	
8.	Order in brief - Appeal No. APL/11/ALB/2026 is allowed accordingly	
	Summary of Order	
9.	If demand order then whether demand quantified: No	

Place :PRAYAGRAJ

Date : 30.10.2026

Shri Pankaj Yadav

Designation: Legal Assistant/Stenographer

Jurisdiction :Prayagraj

Per Hon'ble Mahtab Ahmad Judicial Member

JUDGEMENT

M/s. M & S, Salori, Prayagraj, bearing GSTIN: 09BLHPP0910K1ZZ (hereinafter referred to as the "Appellant"), has preferred the present appeal under Section 112 of the Central Goods and Services Tax Act, 2017, read with the corresponding provisions of the Uttar Pradesh Goods and Services Tax Act, 2017 (hereinafter collectively referred to as the "Act"), against the Judgment and Order bearing Reference No. ZD090325123098E dated 19.03.2025 (hereinafter referred to as the "Order-in-Appeal" or "OIA"), passed by Shri Om Prakash Tiwari, Additional Commissioner, Grade-II (Appeal), State Tax, Prayagraj (hereinafter referred to as the "Appellate Authority"). The aforesaid OIA was passed in respect of the appeal preferred by the Appellant against the Order bearing Reference No. ZD090824214521H dated 24.08.2024 (hereinafter referred to as the "Order-in-Original" or "OIO"), passed by the Proper Officer, Commercial Tax Officer, Sector-2, Prayagraj, Prayagraj (A). Vide the said OIO, the Proper Officer raised a demand comprising CGST of Rs. 32,282.67, interest of Rs. 28,465.30 and penalty of Rs. 10,000.00, aggregating to Rs. 70,747.97, along with a corresponding demand of SGST amounting to Rs. 32,282.67, interest of Rs. 28,465.30 and penalty of Rs. 10,000.00, aggregating to Rs. 70,747.97. Accordingly, the total demand raised under the CGST and SGST heads amounts to Rs. 1,41,495.94.

2. Facts of the Case

2.1- The Appellant is a proprietorship firm, duly registered under the provisions of the Act, bearing GSTIN: 09BLHPP0910K1ZZ, and engaged in the business of trading. Upon scrutiny of the returns furnished by the Appellant for the Financial Year 2019-20, the Proper Officer noticed a discrepancy in the returns, inasmuch as Form GSTR-1 reflected a tax liability of Rs. 1,40,754.00, whereas only Rs. 76,188.00 had been discharged through Form GSTR-3B, thereby resulting in an alleged short payment of tax. Accordingly, a Show Cause Notice in Form GST DRC-01, bearing Reference No. ZD090524427788S dated 30.05.2024, was issued to the Appellant.

2.2- In response to the aforesaid notice, the Appellant submitted its reply, wherein it was contended that, in Form GSTR-1 for the Financial Year 2019-20, sales amounting to Rs. 4,59,497.93 had inadvertently been reported as B2C supplies instead of B2B supplies. The aforesaid sales were again reported in Form GSTR-1 for the month of March, 2020 (F.Y. 2019-20) as B2B supplies, as there was no option available on the GST portal to rectify the erroneous entries in the respective month's Form GSTR-1. Consequently, the taxable supplies and the corresponding tax liability reflected in Form GSTR-1 stood increased, whereas the actual tax liability had been correctly disclosed in Form GSTR-3B. It was further submitted that the actual tax liability in respect of all outward supplies made during the relevant financial year amounted to Rs. 76,188.00, which had duly been discharged through Form GSTR-3B. Accordingly, it was contended that there was no short payment of tax and that the apparent discrepancy between Form GSTR-1 and Form GSTR-3B had arisen solely on account of the aforesaid inadvertent reporting error. The Proper Officer, however, did not accept the explanation furnished by the Appellant and observed

that, if the B2B supplies had inadvertently been reported as B2C supplies in the returns, the Appellant ought to have rectified the same in Form GSTR-1 of the subsequent financial year, which had not been done. Accordingly, the Proper Officer confirmed the proposed demand under Section 73(9) of the Act.

2.3- Being aggrieved by the aforesaid Order-in-Original, the Appellant preferred Appeal No. ZD090824214521H before the Appellate Authority under Section 107 of the Act, reiterating the submissions made before the Proper Officer. However, the learned Appellate Authority also dismissed the appeal, observing that the Appellant had admitted a short payment of tax amounting to Rs. 64,566.00 in Form GSTR-3B on the GST portal. It was further observed that the Appellant had himself admitted to having reported excess B2C sales in Form GSTR-1 for the months of June to March of the Financial Year 2019-20 and that no amendment had been carried out in respect thereof, which ought to have been made in the returns of the subsequent financial year within the prescribed time limit. Since no such amendment had been made within the stipulated time, the claim of the Appellant was held to be not acceptable. Aggrieved by the aforesaid Order-in-Appeal as well as the Order-in-Original, the Appellant has preferred the present appeal before this Tribunal.

3. Grounds of Appeal

3.1- While reiterating the background of the appeal, as stated hereinabove, the Appellant submits that the discrepancy between the tax liability reflected in Form GSTR-1 and Form GSTR-3B arose solely on account of an inadvertent error in reporting B2B supplies as B2C supplies in Form GSTR-1, whereas the said supplies were, in fact, B2B supplies and not B2C supplies. Upon noticing

the aforesaid discrepancy, the Appellant again reported all such supplies in Form GSTR-1 for the month of March, 2020, which had inadvertently been reported as B2C supplies in the earlier returns, under the correct category of B2B supplies. This resulted in duplication of the supplies and an artificial inflation of the turnover, even though the tax in respect of such supplies had already been duly discharged through Form GSTR-3B for the corresponding months from June to March of the Financial Year 2019-20. Since there was no mechanism available on the GST portal to rectify the aforesaid errors in the Form GSTR-1 of the respective preceding months, the Appellant reported the said outward supplies again in Form GSTR-1 for the month of March, 2020, considering it to be the only available course of action. The Appellant had placed all the relevant facts and corresponding details before the authorities below; however, the authorities below did not accept the explanation and observed that the necessary corrections ought to have been made in the returns of the subsequent financial year. The Appellant submits that the aforesaid error was rectified immediately upon its detection and that, in the circumstances, no other course of action appeared to be available to the Appellant. In the facts and circumstances of the case, the entire transaction is revenue-neutral, as the tax payable on all outward supplies made by the Appellant during the Financial Year 2019-20 had already been duly discharged. Therefore, the confirmation of the impugned demand by the authorities below is unjustified and unwarranted. Accordingly, the Appellant prays that the present appeal be allowed, the impugned Order-in-Appeal and Order-in-Original be set aside, and the demand raised thereunder be quashed.

4- **Contention of Revenue**.

No written reply has been filed on behalf of the Revenue. However, the learned State Representative (SR), Ms. Vibha Mishra, DCST, assisted by Shri Suneel Kumar Nirmal, ACST vehemently opposed the appeal and submitted that, as per the particulars available on the GST portal, there was a short payment of tax on the part of the Appellant, as reflected from the comparison of Form GSTR-1 and Form GSTR-3B. Accordingly, the proceedings in question were initiated against the Appellant. It was further contended that the proper course of action for rectifying the alleged inadvertent errors in reporting B2B supplies as B2C supplies was to make the necessary amendments in the returns of the subsequent financial year; however, the Appellant failed to do so. It was also submitted that the Appellant had not produced any relevant material before the authorities below to substantiate its claim. In view of the aforesaid facts and circumstances, the authorities below had rightly rejected the claim of the Appellant and confirmed the demand in question. Accordingly, the learned SR prayed that the appeal be dismissed.

5- Point of Determination.

In view of the aforesaid rival contentions of the parties, the following issues arise for consideration:

(i) Whether it is factually correct that the Appellant had inadvertently reported B2B supplies as B2C supplies in Form GSTR-1 for the months of June to March (F.Y. 2019-20) and, upon noticing the said error, again reported the aforesaid supplies in Form GSTR-1 for the month of March,

2020 under the correct category of B2B supplies, thereby resulting in duplication and artificial inflation of turnover and a consequential increase in the tax liability?

(ii) Whether the Appellant was legally permitted to rectify the alleged errors relating to the nature of outward supplies reported in the earlier returns through Form GSTR-1 for the month of March, 2020, or whether such rectification was required to be carried out in the returns of the subsequent Financial Year 2020-21 within the prescribed time limit?

6- We have heard Shri Rajesh Mishra Advocate for applicant and Ms. Vibha Mishra, SR assisted by Shri Suneel Nirmal ASR for revenue and perused the record.

Shri Rajesh Mishra, on behalf of the Appellant, submits that, due to an inadvertent mistake on the part of the accountant, the B2B outward supplies made by the Appellant from June, 2019 to February, 2020 (F.Y. 2019-20) were shown as B2C supplies in Form GSTR-1 of the respective months. Further, in the month of March, 2020, certain B2B supplies were shown as both B2C supplies as well as B2B supplies in Form GSTR-1 of the said month. The Appellant has furnished the relevant comparative figures in respect of the aforesaid errors and its tax liability in a tabulated form, which can be verified from the GST portal. However, the learned Proper Officer took an adverse view against the Appellant solely on the basis of the mismatch in tax liability reflected in Form GSTR-1, ignoring the double entry of the same supplies arising on account of the aforesaid correction. The Appellate Authority has also adopted

the same approach. In fact, the discrepancy in the tax liability of the Appellant, as reflected in Form GSTR-1 and Form GSTR-3B, was verifiable from the GST portal. However, instead of doing so, both the authorities below rejected the Appellant's explanation, ignoring the data furnished by the Appellant, on the assumption that the said errors in filing Form GSTR-1 ought to have been corrected in the return of the subsequent financial year, which is contrary to the provisions of Section 39(9) of the Act, as it then stood, which provided for the correction of errors and omissions in the return up to the last date of filing the return for the month of September of the following financial year. Since the correction had been made in the return for the month of March of the same financial year, it was in accordance with the aforesaid provision. Even if there was any error in making such correction, there was no loss of revenue or interest, as the tax payable on such outward supplies had already been paid through Form GSTR-3B for the respective months. Therefore, there was no justifiable reason to raise the impugned demand. Accordingly, appeal is liable to be allowed setting aside both the OIO and OIA.

7- Submission For Revenue.

No written reply was filed by the Revenue. However, the learned SR, assisted by the learned ASR, submitted that the Appellant did not appear before the Proper Officer in response to the supplementary notice, and the Proper Officer, therefore, could not verify the Appellant’s claim on the basis of the relevant documents.

The same happened before the Appellate Authority. The data provided by the appellant regarding his outward supply and its nature pointing the discrepancies

regarding nature of supply required verification. There was apparent mismatch between tax liability reflected from GSTR-1 and tax liability admitted in GSTR-3B with a short payment of Rs. 64,566.00. As such, action against the appellant u/s 73 of the Act was legally inevitable. It cannot, therefore, be said that the impugned orders are not legal. Accordingly, they prayed for dismissal of appeal.

8. Discussion

8.1- Before proceeding to examine the aforesaid factual and legal issues, we consider it appropriate to clarify that, in the course of hearing, certain verification was found necessary for a fair, just and effective adjudication of this case once and for all at the level of this tribunal which is an adjudicatory forum of both facts and law, we directed the appellant to furnish Form GSTR-1 for the entire F.Y.-2019-20, a tabulated statement of all outward supplies indicating the B2B supplies which had erroneously been reported as B2C supplies in Form GSTR-1, the tax invoices relating to all such supplies, and Form GSTR-3B for the month of March, 2020, in order to verify the Appellant's claim regarding the alleged error in filing Form GSTR-1, with the assistance of the learned SR. In compliance with the aforesaid direction, the Appellant furnished the requisite documents by uploading the same on the GSTAT portal. Upon perusal of the downloaded quarterly Form GSTR-1 of the Appellant, it is noticed that most of the outward supplies made by the Appellant during the relevant financial year had been reported as B2C supplies. It is not in dispute that the tax in respect of the said supplies for the period from June, 2019 to February, 2020 had been duly discharged through Form GSTR-3B of the respective months. In Form GSTR-3B for the month of March, 2020, only the tax liability relating to the outward

supplies made during March, 2020 was declared and discharged, whereas, in Form GSTR-1 for the said month, the outward supplies of the preceding months, which had erroneously been reported as B2C supplies instead of their actual nature as B2B supplies in the respective monthly returns, were again reported along with the outward supplies made during March, 2020. Consequently, the turnover as well as the corresponding tax liability reflected in Form GSTR-1 stood inflated on account of such duplication. We have also examined the tabulated statement of outward supplies furnished by the Appellant, wherein the names of the recipients, along with their respective GSTINs, have been indicated. The said statement demonstrates that the actual nature of the supplies was B2B, whereas the same had erroneously been reported as B2C supplies in the corresponding returns of Form GSTR-1. Since the said statement contains not only the names of the purchasers but also their respective GSTINs, it prima facie establishes that the supplies erroneously reported as B2C supplies were, in fact, B2B supplies. The Appellant has also placed on record the tax invoices relating to all such supplies, which indicate that the recipients were registered persons under the Act, having their respective GSTINs. The learned SR has also acknowledged this factual position during the course of verification before this Tribunal. In view of the aforesaid documentary evidence and the verification undertaken during the proceedings, no doubt remains regarding the actual nature of the supplies being B2B supplies, which had erroneously been reported as B2C supplies in the corresponding Form GSTR-1 returns. Accordingly, Point of Determination No. 1 is decided in the affirmative.

8.2- During the discussion on issue No. 1, we notice that, in Form GSTR-1, the Appellant, apart from reporting the outward supplies made during the month

of March, 2020, again reported all the outward supplies made during the preceding months from June, 2019 to February, 2020 (F.Y. 2019-20), which resulted in inflation of the turnover as well as the corresponding tax liability of the Appellant. The Appellant's contention is that the same was merely a correction of the erroneous entries made in the earlier returns of Form GSTR-1 for the relevant financial year with regard to the nature of supplies, wherein the B2B supplies had inadvertently been reported by the accountant as B2C supplies, instead of their actual nature as B2B supplies. It is contended that such correction was permissible under Section 39(9) of the Act, which provides for rectification of errors and omissions in the returns within the stipulated time limit. The observation of the authorities below that such corrections ought to have been made in the returns of the subsequent financial year within the prescribed time limit does not appear to be correct in view of the provisions of Section 39(9) of the Act, which prescribe only the outer time limit for rectification of errors or omissions, i.e., up to the last date of filing the return for the month of September of the subsequent financial year. The said provision does not mandate that an error or omission occurring in the return of a particular month of a financial year cannot be rectified in the return of a subsequent month of the same financial year. On behalf of the Revenue, nothing adverse has been brought on record before this Tribunal to controvert the aforesaid contention of the Appellant. We have, therefore, examined the provisions of Section 39(9) of the Act, as it then stood, which is the enabling provision for rectification of any omission or incorrect particulars in the return(s). The said provision prescribes only two conditions. The first is that such rectification should not be on account of any scrutiny, audit, inspection or enforcement activity undertaken by the tax

authorities; and the second is that such rectification must be carried out on or before the last date of filing the return for the month of September of the subsequent financial year. There is no stipulation in the said provision that the permissible rectification of errors or omissions can be carried out only in the returns of the subsequent financial year. Errors or omissions in furnishing returns may occur in any month of the current financial year and, if noticed subsequently during the same financial year, may also be rectified in the returns of the succeeding months of that very financial year. The said provision does not impose any such embargo that rectification can be carried out only in the returns of the subsequent financial year, as observed by the authorities below in both the Order-in-Original and the Order-in-Appeal. In this regard, it would be relevant to refer to the aforesaid statutory provision, which reads as under:

> **"***39(9)- Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission are incorrect particulars therein, other than result of scrutiny, audit, inspection or enforcements activity by the tax authorities, he shall rectify such omission are incorrect particulars in the return to be furnished for the month or quarter during which such omission are incorrect particulars or notices, subject to the payment of interest rate*
>
> ***Provided** that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter or the*

actual date of furnishing the date of relevant annual returns, whichever is earlier."

In the case in hand, the aforesaid errors relating to the nature of the outward supplies made by the Appellant occurred in Form GSTR-1 for the months of June, 2019 to February, 2020, including duplication of certain outward supplies of March, 2020, which were reported both as B2C and B2B supplies. The supplies made by the Appellant during the said months were, in fact, B2B supplies; however, the same were erroneously reported as B2C supplies. Upon noticing the aforesaid error, and perhaps for the reason that the corresponding Input Tax Credit (ITC) would not be auto-populated in the purchasers' Form GSTR-2A, the Appellant, in order to address the grievance and inconvenience of its purchasers, reported the said supplies, which had earlier been erroneously shown as B2C supplies, under their correct category of B2B supplies in Form GSTR-1 for the month of March, 2020, in addition to the outward supplies made during March, 2020. Consequently, duplicate entries came to be reflected in Form GSTR-1 for the entire financial year. The Appellant had already discharged the tax liability in respect of the aforesaid previous supplies. Therefore, through Form GSTR-3B for the month of March, 2020, the Appellant discharged only the tax liability relating to the supplies made during that month. This resulted in an artificial inflation of the Appellant's turnover and tax liability as reflected in Form GSTR-1, in comparison with Form GSTR-3B. The discrepancy in the tax liability pointed out by the Revenue has been duly explained by the Appellant and verified by furnishing the relevant records, as discussed hereinabove. It is not in dispute that the aforesaid rectification relating to the nature of supplies was carried out without being occasioned by any

scrutiny, audit, inspection or enforcement activity by the tax authorities and that the same was also made within the outer time limit for rectification prescribed under the proviso to Section 39(9) of the Act. We have no doubt that there is no provision in the aforesaid rectification clause which mandates a taxpayer, upon noticing an omission or incorrect particulars in a previous return, to make the necessary correction only in the return of the subsequent financial year and not in a subsequent return of the same financial year. As such, the authorities below appear to have adopted an erroneous interpretation of the aforesaid statutory provision governing the rectification of omissions or incorrect particulars in the previous returns. It may be that the Appellant committed certain errors while carrying out such rectification, inasmuch as, in Form GSTR-1 for the month of March, 2020, certain supplies were again reported as B2C supplies while their correct nature as B2B supplies was also reflected therein. However, such errors do not go to the root of the Appellant's actual tax liability and appear to be merely procedural errors arising out of a lack of proper understanding of the prescribed procedure. The case is revenue-neutral and pertains to the initial years of the GST regime. Therefore, we do not consider it appropriate for the Revenue to penalise a bona fide taxpayer in the facts and circumstances of the present case. The Appellant is merely a registered person collecting tax on behalf of the State from the recipients of supplies, who ultimately bear the incidence of such tax, and the tax liability in respect of the actual outward supplies had already been discharged. In such circumstances, the Revenue authorities ought to adopt a sympathetic and pragmatic approach while dealing with a bona fide registered person/taxpayer. In view of the foregoing discussion, we hold that the Appellant was legally permitted to carry out rectification in Form GSTR-1 for the month

of March, 2020, in respect of the errors relating to the nature of supplies committed in the returns of the preceding months of the same financial year, in terms of the provisions of Section 39(9) of the Act. Accordingly, Point of Determination No. 2 is also decided in the affirmative and in favour of the Appellant.

9. In view of the foregoing discussion and the reasons recorded hereinabove, it stands established that the Appellant had erroneously reported most of its outward supplies during the Financial Year 2019-20 as B2C supplies instead of their actual nature as B2B supplies. However, the said error was duly rectified in Form GSTR-1 for the month of March, 2020, of the Financial Year 2019-20, which was permissible under Section 39(9) of the Act. Consequently, the appeal deserves to be allowed by setting aside Order-in-Original No. ZD090824214521H dated 24.08.2024 and Order-in-Appeal No. ZD090325123098E dated 19.03.2025, and the demand raised by the Revenue against the Appellant is liable to be quashed.

ORDER

Appeal No. APL/11/ALB/2026 is allowed accordingly. Order-in-Original No. ZD090824214521H dated 24.08.2024 and Order-in-Appeal No. ZD090325123098E dated 19.03.2025 are hereby set aside, and the demand raised by the Revenue against the Appellant stands quashed.

2. The Appellant shall be entitled to a refund of the amount, if any, recovered by the Revenue or deposited by the Appellant pursuant to the orders

of the authorities below, in accordance with the applicable provisions of the Act and the Rules framed thereunder governing such refund.

(Ashish Varma)
Technical Member

(Mahtab Ahmad)
Judicial Member

Dated: 30.10.2026

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

(Ashish Varma)
Technical Member

(Mahtab Ahmad)
Judicial Member

Dated: 30.10.2026

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