GSTAT

State Bench Chandigarh

Division Bench Court No. Court I

APL/181/CHD/2026

THE DHANAULA CO-OP AGRI.SERVICE SOCIETY LTD DHANAULA **.....Appellant**

Versus

THE STATE TAX OFFICER-CUM-PROPER OFFICER, THE STATE TAX OFFICER-CUM-PROPER OFFICER, THE STATE TAX OFFICER-CUM-PROPER OFFICER & ORS. **.....Respondent**

Quorum

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

Counsel for Appellant
SH. LOVE KUMAR, CA

Counsel for Respondent
SH. YADWINDER SINGH, AR
SH. AMIT KUMAR, STO
SH. SUNIL GOYAL, STO

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. : ZA030281026000399H **Date of order :** 30/10/2026

1.	GSTIN/Temporary ID/UIN - 03AAABT0058M1ZK	
2.	Appeal Case Reference no. - APL/181/CHD/2026	Date - 19/06/2026
3.	Name of the appellant - THE DHANAULA CO-OP AGRI.SERVICE SOCIETY LTD DHANAULA , harishgarg38@gmail.com , 9417042548	
4.	Name of the respondant - 1. Anurag Bharti Assistant Commissioner of StateTaxes (Jalandhar-1) , aetcjal1@punjab.gov.in , 9872910024 2. Deputy Commissioner of State Tax Patiala Division 3. THE STATE TAX OFFICER-CUM-PROPER OFFICER	
5.	Order appealed against - AD030625003168F	

	(5.1) Order Type - Other order	
	(5.2) Ref Number - ZD031225016003A	Date - 10/12/2025
6.	Personal Hearing - 30/10/2026 15/10/2026 22/09/2026 10/09/2026 27/08/2026	
7.	Order in brief - With the above observations, we quash the Impugned Order and remand the matter to the original Adjudicating Authority for fresh adjudication after taking additional evidence, if necessary. The Adjudicating Authority will pass fresh orders regarding the merits of the demand of tax, interest and penalty raises raised against the Appellant, after considering and dealing with the primary grounds raised by the Appellant to challenge the demand sought to be raised against them. Needless to add, the Adjudicating Authority will also afford reasonable opportunity to the Appellant to represent their case before him, including the opportunity of personal hearing. The appeal is disposed of on the above terms.	

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
Any other	Mechanically upheld the entire ITC reversal demand without appreciating that zero input tax was paid on the exempt supplies.	
Any other	The First Appellate Authority mechanically upheld the rejection of rectification and confirmed the entire demand without verifying the portal records.	

10.	If remanded with directions:
	a) Remanded to: Adjudicating Authority
	b) Directions subject to which remanded, if any: With the above observations, we quash the Impugned Order and remand the matter to the original Adjudicating Authority for fresh adjudication after taking additional evidence, if necessary. The Adjudicating Authority will pass fresh orders regarding the merits of the demand of tax, interest and penalty raises raised against the Appellant, after considering and dealing with the primary grounds raised by the Appellant to challenge the demand sought to be raised against them. Needless to add, the Adjudicating Authority will also afford reasonable opportunity to the Appellant to represent their case before him, including the opportunity of personal hearing. The appeal is disposed of on the above terms.

Place :CHANDIGARH

Signature

Date : 30.10.2026

CHANDIGARH Jatinder Pal Singh

Designation : Member

Jurisdiction :Chandigarh

ORDER

This appeal has been filed by The Dhanaula Co-Op Agri. Service Society Ltd., Dhanaula, Barnala, Punjab, 148105 (hereinafter referred to as "the Appellant") against Order-in-Appeal No. ZD031225016003A dated 10.12.2025 ("the Impugned Order") passed by the Deputy Commissioner of State Tax (Appeals), Patiala Division ("the Appellate Authority"). The SGST Department is the Respondent herein.

2. The facts of the case in brief are as under:

a. The Appellant is a Cooperative Agricultural Service Society registered with the SGST Department vide GSTIN The Appellant is engaged in pure trading activities, procuring goods and services for the benefit of its members, and supplying them with a nominal markup.

b. An intimation in Form GST DRC-01A (Ref: ZD030524000674U) was issued by the SGST authorities to the Appellant on 02.05.2024 for the Financial Year 2019-20 requiring the Appellant to reverse Input Tax Credit ("ITC") on exempt supply. The Appellant claims that a reply was filed on 22.05.2024 via Form GST DRC-01A Part-B (Ref No: ZD030524048637C), vide which the Appellant clarified that the exempted turnover pertained to pure trading of cattle feed (exempt supply) procured at 0% GST rate, with no ITC availed. The Appellant also stated that outward tax of Rs. 9,02,654 (CGST) and Rs. 9,02,654 (SGST) had already been paid.

c. The State Tax Officer issued a Show Cause Notice (DRC-01) on 28.05.2024 (Ref: ZD030524069544E) ("the SCN"), and subsequently passed an Order-in-Original in Form DRC-07 (Ref: ZD030824051632L) on 30.08.024 ("the OIO"). Vide the OIO, tax demand of Rs. 1,20,852 was raised against the Appellant with interest of Rs. 1,06,978, and penalty of Rs. 20,000 was also imposed.

d. The Appellant filed a Rectification Application on 22.11.2024 (ARN: AD031124022514S). The State Tax Officer rejected this application vide order dated 05.06.2025 (Order No. ZD030625003603W), on the ground that no reply to DRC-01 was filed.

e. The Appellant filed an appeal before the Appellate Authority, who passed the Impugned Order dated 10.12.2025 upholding the order passed by the lower authority. The Appellant has now filed the present appeal before this Tribunal.

3. The Appellant has challenged the demand of tax and interest and imposition of penalty on various grounds. The first ground is that the statutory mandates under Section 73 and 75 of the CGST Act have been violated, and that the provisions of Section 75(4), Section 73(9) and Rule 142 have also been violated resulting in violation of the principles of natural justice. In this regard, the Appellant has contended that:

i. Section 73(9) of the CGST Act dictates that the proper officer shall determine the tax payable only after considering the representation of the person. Furthermore, Section 75(4) mandatorily requires that an opportunity of hearing shall be granted where any adverse decision is contemplated. The statutory mandates of these provisions have been violated in this case.

ii. Rule 142(1A) and 142(2A) were intended by the legislature to facilitate a pre-show cause consultation. By blatantly ignoring the DRC-01A reply filed on 22.05.2024 and mechanically issuing the DRC-01 on 28.05.2024, the Proper Officer has subverted this statutory purpose.

ii. Following the precedent in *Shoriful Islam vs. The State of Assam [WP(C)/471/2026]*, a summary notice in DRC-01 cannot substitute a proper Show Cause Notice. Furthermore, the attachments containing the "detailed workings" lack a valid digital signature of the Proper Officer, rendering the initiation of proceedings and the subsequent order void ab initio under Rule 26(3).

iv. Relying on *Jai Jawan Kastha Bhandar v. State of Jharkhand [2022] 140 taxmann.com 537*, an adjudication order passed by suppressing a taxpayer's reply or by pre-determining liability violates the principles of natural justice and is legally void.

4. The next ground raised is regarding misapplication of Section 17(2) read with Rule 42 & 43. The Appellant has contended that:

i. The demand of Rs. 1,19,506 (Rs. 59,753 CGST + Rs. 59,753 SGST) is based on a mechanical ratio applied to the total ITC. This is wholly illegal and contrary to the scheme of Rule 42(1)(c) and (f), which inherently presupposes the existence of "Input Tax" actually paid on purchases used to make exempt supplies.

ii. The exempted turnover pertains to the pure trading of cattle feed (HSN 2309). As evidenced by the tax invoices attached with the appeal, these supplies were procured at 0% GST rate.

ii. Since no input tax was ever paid or availed on the purchases used for these exempt supplies, there was no "common input tax credit" available for reversal under Rule 42 or 43.

iv. The Appellant's GSTR-9 (Table 7) correctly reflects zero reversal under Rule 42, which serves as the final statutory declaration for the financial year.

5. The next ground raised by the Appellant relates to "Error Apparent in GSTR-01 vs. GSTR-09 Reconciliation". It is contended that:

i. The secondary demand of Rs. 1,346 (Rs. 673 CGST and Rs. 673 SGST) is based on a superficial mathematical comparison between GSTR-01 and GSTR-09. Under Section 44 of the CGST Act, the Annual Return is the final statutory declaration intended to rectify clerical omissions.

ii. As per GSTR-9 (Table 9), the Appellant paid total outward tax of Rs. 9,01,981.63 each for CGST and SGST. This massive actual payment completely nullifies the marginal reconciliation difference of Rs. 673 + Rs. 673.

iii. There is zero revenue loss to the State. By penalizing a corrective annual declaration as an "under-declaration," the Assessing Officer has ignored the statutory purpose of Section 44.

6. The Appellant has also raised a ground regarding "Jurisdictional Failure of the First Appellate Authority", contending that:

i. The failure of the Proper Officer to acknowledge a successfully filed reply is a manifest "error apparent on the face of record" under Section 161.

ii. When the rectification was illegally rejected on 05.06.2025 on the arbitrary premise that a "Reply to DRC-01 is a must", the First Appellate Authority was statutorily obligated under Section 107(11) to evaluate this specific procedural failure.

iii. Instead of correcting the patent error, the Deputy Commissioner (Appeals) dismissed the appeal without independently verifying the portal records which clearly contained the Appellant's detailed submissions and tax payment proofs (GSTR-9). The Appellate Authority shirked its quasi-judicial responsibility to decide the case on its actual factual merits.

4. We have heard Sh. Love Kumar, CA for the Appellant. He has argued that there was no case for reversal of ITC in the present case as no ITC was taken on purchase of goods supplied at nil rate. He further stated that the Adjudicating Authority has not followed the principles of natural justice and has proceeded to decide the case without taking on record the

reply filed by them. Sh. Sunil Goyal, STO has appeared for the Respondent SGST Department, along with Sh. Yadwinder Singh, Ld. AR and Sh. Amit Kumar, STO. Sh. Goyal has explained the facts of the case and made submissions on behalf of the Respondent Department.

5. We have gone through the facts of the case, and have considered the documents on record, the relevant legal provisions and the arguments advanced by both sides. There are two counts on which tax demand has been raised in the present case: (i) that the Appellant was required to reverse ITC amounting to Rs.1,19,506/- (Rs. 59,753/- CGST and Rs. 59,753/- SGST) on common inputs used for making exempt supplies as well as taxable supplies; and (ii) that the Appellant was liable to pay tax amounting to Rs.1,346/- (Rs. 673/- CGST and Rs 673/- SGST) short paid as per reconciliation between GSTR-1 and GSTR-9.

6. The proceedings in this case were initiated by issuing a notice in Form DRC-1A proposing to demand tax on the ground that the Appellant had availed common ITC for taxable and exempt supplies and was hence required to reverse ITC under Section 17(2) of the CGST Act, 2017 ("the Act"). The notice also proposed recovery of interest and imposition of penalty. It was stated that Rules 42 and 43 of the CGST Rules, 2017 ("the Rules") provide for the manner of calculating the amount of ITC required to be reversed in respect of common inputs/input services and capital goods respectively. The notice was issued based on the information furnished by the Appellant in their GSTR-9 return for FY 2019-20 in which they had declared exempt supplies but had not reversed any ITC.

7. For understanding the issue involved, it is relevant to refer to the provisions of Section 17(2) of the Act which are extracted as under:

"Section 17. Apportionment of credit and blocked credits.-

(1) …..

(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies."

8. The Appellant has claimed that their exempt supplies are of goods namely cattle feed (HSN 2309) in which they have undertaken trading and on which no GST is payable. As such they have also not availed any ITC on purchase of these goods. In support of their contention,

they have produced sample purchase invoices for these goods.

9. It is observed that ITC is required to be reversed under Section 17(2) of the Act, if the goods and/or services on which ITC is taken are used partly for effecting taxable supplies and partly for effecting exempt supplies. If no ITC is taken in respect of purchase of traded goods (namely, cattle feed in the present case) which are wholly exempted from payment of GST, reversal of ITC by the Appellant will not be required unless some amount of ITC, such as on common input services, is taken which is used partly for effecting exempt supplies (i.e. sale of cattle feed) and partly for effecting taxable supplies. Thus, we are of the view that reversal of ITC will be required only to that extent, if any, and not more than that.

10. We are of the view that the matter is required to be referred back to the original authority for verifying the documents relating to ITC availed by the Appellant, ascertaining whether any ITC has been availed which has been used partly for effecting taxable supplies and partly for effecting exempt supplies, and calculating the amount required to be reversed, if any, under Section 17(2) of the Act.

11. As regards the second issue, we find that the differential tax of Rs. 1,346/- has been demanded by the Adjudicating Authority on the basis of reconciliation between GSTR-1 returns and GSTR-9 return for FY 2019-20, as the tax liability declared by the Appellant in GSTR-1 was higher than the tax liability declared in GSTR-9. We observe that the Annual return GSTR-9 filed under Section 44 of the Act is an annual return and the taxpayer has the right to correct the figures declared in monthly/quarterly returns (such as GSTR-1), in the GSTR-9 return for that year. However, in the present case the Appellant has claimed that the difference in the amount of tax payable as per GSTR-1 and GSTR-9 is due to some clerical errors. Since we are referring the matter back to the original authority as regards the first issue, we allow the Appellant the opportunity to explain the reasons for the difference relating to the second issue to the original authority. The original authority will consider the explanation / reasons given by the Appellant, and decide whether any tax is payable by the Appellant.

12. During the course of arguments, counsel for the Appellant has in fact fairly agreed that the matter ought to be referred back to the original authority. Counsel for the Respondent SGST Department have also stated that they have no objection to the matter being referred back to the original authority.

13. With the above observations, we quash the Impugned Order and remand the matter to the original Adjudicating Authority for fresh adjudication after taking additional evidence, if

necessary. The Adjudicating Authority will pass fresh orders regarding the merits of the demand of tax, interest and penalty raises raised against the Appellant, after considering and dealing with the primary grounds raised by the Appellant to challenge the demand sought to be raised against them. Needless to add, the Adjudicating Authority will also afford reasonable opportunity to the Appellant to represent their case before him, including the opportunity of personal hearing.

14. The appeal is disposed of on the above terms.

(Jatinder Pal Singh)

(Pradeep Kumar Goel)

Dated: 30.10.2026