GSTAT

State Bench Bengaluru

Division Bench Court No. Court III

APL/30/BUR/2026

BELGAUM FERRO CAST (INDIA) (P) LIMITED **.....Appellant**

Versus

SATISH P KELAVADI, JOINT COMMISSIONER (APPEALS), LGSTO 380 & ORS. **.....Respondent**

Quorum

Hon'ble Prabhakaran PM, Member(Judicial)
Hon'ble Ravi Jesuraj S, Member (Technical)

Counsel for Appellant
ARATI
SHRI MUKUND NYALKALKAR, ADVOCATE

Counsel for Respondent
SHRI THIPPANAYAK THIPPU,
DEPUTY COMMISSIONER

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. : ZA290171026000192H **Date of order :** 30/10/2026

1.	GSTIN/Temporary ID/UIN - 29AACCB9465D1ZI	
2.	Appeal Case Reference no. - APL/30/BUR/2026	Date - 06/05/2026
3.	Name of the appellant - BELGAUM FERRO CAST (INDIA) (P) LIMITED , patilgururaj9@gmail.com , 9480839903	
4.	Name of the respondant - 1. JCCT (e-Audit) , jccte-audit@ctd.ka.gov.in , 9448811330 2. Satish P Kelavadi	
5.	Order appealed against - AD291223004702H	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD290525112014R	Date - 30/05/2025

6.	Personal Hearing - 30/10/2026 21/09/2026 09/09/2026 25/08/2026
7.	Status of Order under Appeal - Reject - Order under Appeal is annulled
8.	Order in brief - the impugned order and the Adjudication order are set aside, and the matter is remanded, in the interest of justice, to the Adjudicating Authority for fresh, reasoned adjudication in accordance with the law, on the terms set out below. (i) The Order no. Acct/A-7/Bgm/27/2023-24 Date: 30.09.2023 for the period April 2018 to March 2019 passed by the Asst Commissioner of Commercial Taxes (Audit) -7 Belagavi, with the summary in Form GST DRC-07 dated 09.10.2023, is set aside. (ii) The impugned Order No: GST-278/2023-24 dated 26.05.2025 for the period April 2018 to March 2019 passed by the Joint Commissioner of Commercial Taxes (Appeals), Belagavi under Section 107(11) of the Act is set aside. (iii) The rectification order communicated in Form GST DRC-08 dated 05.06.2025, to the extent it relates to the demand in this appeal, is also set aside. (iv) Consequently, the demand of tax, interest and penalty stands set aside. (v) The matter is remanded to the Adjudicating Authority for fresh adjudication, strictly confined to the show cause notice issued in Form GST DRC-01 dated 30.06.2023. The adjudicating authority shall decide afresh, uninfluenced by the findings in the orders now set aside or by any observation in this order on the merits. (vi) The Adjudicating Authority shall not travel beyond the heads (IGST, CGST or SGST) and grounds set out in that notice or confirm, or propose to confirm, any tax, interest or penalty exceeding the amount specified in that notice, under any head or on any ground whatsoever. (vii) The Appellant shall, within thirty days of receipt of this order, produce its books of accounts; month-wise registers of eligible and ineligible ITC; its GSTR-3B returns for 2018-19 with the working papers; Forms GSTR-9 and GSTR-9C as filed on the portal; its RCM tax payable and receivable ledgers, including the RCM paid in March 2018 and claimed in April and May 2018; and details of credit brought forward from 2017-18 and carried forward to 2019-20. The adjudicating authority may call for any further document it needs in connection with this adjudication proceedings. (viii) The adjudicating authority shall first determine, from the portal, which Form GSTR-9- Annual Return was filed by the Appellant, and compute any difference from that return. (ix) The Adjudicating Authority shall complete the adjudication process as per the procedure provided under the Act and pass the order within 3 months from the date of receipt of this order.

Summary of Order

9.	If demand order then whether demand quantified: No

10.	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	1407986	the impugned order and the Adjudication order are set aside, and the matter is remanded, in the interest of justice, to the Adjudicating Authority for fresh, reasoned adjudication in accordance with the law, on the terms set out below. (i) The Order no. Acct/A-7/Bgm/27/2023-24 Date: 30.09.2023 for the period April 2018 to March 2019 passed by the Asst Commissioner of Commercial Taxes (Audit) -7 Belagavi, with the summary in Form GST DRC-07 dated 09.10.2023, is set aside. (ii) The impugned Order No: GST-278/2023-24 dated 26.05.2025 for the period April 2018 to March 2019 passed by the Joint Commissioner of Commercial Taxes (Appeals), Belagavi under Section 107(11) of the Act is set aside. (iii) The rectification order communicated in Form GST DRC-08 dated 05.06.2025, to the extent it relates to the demand in this appeal, is also set aside. (iv) Consequently, the demand of tax, interest and penalty stands set aside. (v) The matter is remanded to the Adjudicating Authority for fresh adjudication, strictly confined to the show cause notice issued in Form GST DRC-01 dated 30.06.2023. The adjudicating authority shall decide afresh, uninfluenced by the findings in the orders now set aside or by any observation in this order on the merits. (vi) The Adjudicating Authority shall not travel beyond the heads (IGST, CGST or SGST) and grounds set out in that notice or confirm, or propose to confirm, any tax, interest or penalty exceeding the amount specified in that notice, under any head or on any ground whatsoever. (vii) The Appellant shall, within thirty days of receipt of this order, produce its books of accounts; month-wise registers of eligible and ineligible ITC; its GSTR-3B returns for 2018-19 with the working papers; Forms GSTR-9 and GSTR-9C as filed on the portal; its RCM tax payable and receivable ledgers, including the RCM paid in March 2018 and claimed in April and May 2018; and details of credit brought forward from 2017-18 and carried forward to 2019-20. The adjudicating authority may call for any further document it needs in connection with this adjudication proceedings. (viii) The adjudicating authority shall first determine, from the portal, which Form GSTR-9- Annual Return was filed by the Appellant, and compute any difference from that return. (ix) The Adjudicating Authority shall complete the adjudication process as per the procedure provided under the Act and pass the order within 3 months from the date of receipt of this order.

Place :BENGALURU

Signature

Date : 30.10.2026

BENGALURU Prabhakaran PM

Designation : Member

Jurisdiction :Bengaluru

GOODS AND SERVICES TAX APPELLATE TRIBUNAL

BENGALURU BENCH (Division Bench: Court No. III)

SHRI PRABHAKARAN P M, Member (Judicial), SHRI RAVI JESURAJ S, Member (Technical)

APPEAL NO: APL/30/BUR/2026

[Arising out of the order in appeal no: GST-278/2023-24 dated 26.05.2025]

BELGAUM FERRO CAST (INDIA) (P) LTD, BELAGAVI .....APPELLANT

Versus

THE COMMISSIONER OF COMMERCIAL TAXES, KARNATAKA

BENGALURU .....RESPONDENT

……

FINAL ORDER: Dated 30th October 2026

……

Appearance by: **Shri Mukund Nyalkalkar**, Advocate, for the Appellant

Shri Thippa Nayak, Deputy Commissioner and Department Representative for the Respondent

Per: Prabhakaran P M, Member (Judicial)

Introduction

1.1 This Appeal, filed by Belgaum Ferro Cast (India) (P) Ltd (GSTIN 29AACCB9465D1ZI) (the Appellant) assails the Order No: GST-278/2023-24 dated 26.05.2025 (summary uploaded under reference: ZD290525112014R dated 30/05/2025) for the period April 2018 to March 2019 passed by the Joint Commissioner of Commercial Taxes (Appeals), Belagavi under Section 107(11) of the Central Goods and Services Tax Act, 2017 and the Karnataka Goods and Services Tax Act, 2017 (together, "the Act") (hereinafter referred to as 'Order-in-Appeal' or 'impugned order'). The impugned order upheld the Order No.

Acct/A-7/Bgm/27/2023-24 Date: 30.09.2023 passed by the Asst Commissioner of Commercial Taxes (Audit) -7 Belagavi dated 30.09.2023 communicated vide Reference no: Reference No.: ZD291023008815J dated 09/10/2023 (hereinafter referred to as 'adjudication order').

1.2 The issue is regarding excess availment of Input tax credit (ITC) in Form GSTR 3B as against the ITC reported in Form GSTR 9 Annual Return for the financial year 2018-19.

Brief Facts of the case:

2.1 The issue under consideration arose out of the scrutiny of Form GSTR 3B and Form GSTR 9- Annual Return filed by the Appellant for the financial year 2018-19. It was observed that the Appellant had availed total Input Tax Credit (ITC) in Form GSTR 3B of Rs 7,21, 65,748 as against the total ITC of Rs 7,14,28,585 stated to be reported as available in Form GSTR 9 under different heads, which resulted in excess claim of ITC of Rs in GSTR 3B for the period April 2018 to March 2019.

2.2 The above stated mismatch was originally identified during the Audit conducted by the Assistant Commissioner of Commercial Taxes (Audit -7), Belgavi. The final Audit Report as revised was issued under Section 65(6) of the Act on 16/02/2023. It pointed out various observations including the above excess claim of ITC. A reply was furnished by the Appellant on the same date, 16/02/2023.

2.3 DRC 01A was issued on 19/04/2023. Show cause notice under Section 73(1) of the Act and summary in Form GST DRC-01 was issued on 30/06/2023. Adjudication order was passed in Order no. Acct/A-7/Bgm/27/2023-24 Date: 30.09.2023 and summary vide DRC 07 Reference No.: ZD291023008815J dated 9/10/2023. The GST demand ultimately rests on alleged excess input tax credit (ITC) of Rs 7, 37,165 (IGST Rs. 78,823; CGST Rs. 3,29,171;

SGST Rs. 3,29,171) (the orders also give the total as Rs 7,37,163 in some places) for FY 2018-19, applicable interest and penalty and imposed.

2.4 On 26.10.2023, the Appellant applied under Section 161 of the Act for rectification of the adjudication order. It said that no personal hearing had been given while passing the adjudication order; that the order wrongly recorded that the GSTR-3B claim of Rs. 7,26,90,007 included RCM credit of Rs. 5,24,259; that it wrongly recorded an admission of excess ITC of Rs. 7,37,163; and that the purchase return/rejection register and GSTR-9C filed with the reply had not been considered.

2.5 The application for rectification was acknowledged vide ARN: AD291023025111T. Since this was not decided, an appeal against the above order in form APL 01 was filed on 05/12/2023 within the statutory time to file the first appeal. They had urged the following grounds in the Appeal:

(i) That there was gross violation of principles of natural justice in the case in as much as the impugned Order had been passed without granting any personal hearing;

(ii) That at Page 22 of the Order, it was mentioned that the ITC of Rs.7,26,90,007/- claimed in GSTR-3B was inclusive of ITC of Rs.5,24,259/- on RCM, however, in their reply, they had clearly mentioned that they had not availed the said ITC;

(iii) That at Page 22 of the Order, it was wrongly mentioned that the appellant had admitted excess availment of ITC of Rs.7,37,163/- though nowhere in the reply they had admitted so. On the other hand, in the last page of their reply, they had clearly demonstrated as to how and why there was no excess availment of ITC of Rs.7,37,163/-;

(iv) Documentary evidence such as copies of purchase return/rejection register along with GSTR-9C certification were produced to prove that they had not availed any

excess ITC as alleged, but the said documentary evidence was not at all appreciated by the adjudicating authority;

(v) That on the basis of above said facts and circumstances, they had filed an rectification of order application ARN No.AD291023025111T, dt.26.10.2023 but the same was not at all considered till filing the this Appeal;

2.6 The appeal filed by the appellant was dismissed by the Joint Commissioner of Commercial Taxes (Appeals) vide order dated 26.05.2025. It upheld the adjudication order under Section 73(9) of the GST Act.

2.7 The authority held that, although the appellant alleged no personal hearing, it had received notices, filed a written reply, and the assessment was made after considering that reply. As far as rectification application is concerned the order recorded that the appellant had filed a rectification application on 26 October 2023, which it said had not been considered; however, this did not change the outcome of the appeal.

2.8 The appellate authority accepted the department's reconciliation. The regular ITC in GSTR-3B was Rs. 7,21,65,748 after excluding RCM ITC of Rs. 5,24,259. ITC of Rs. 7,14,28,585 was reported in GSTR-9. This left an excess ITC claim of Rs. 7,37,163 availed by the Appellant. The demand was confirmed in respect of excess ITC of IGST Rs. 78,823; CGST Rs. 3,29,171; SGST Rs. 3,29,171, (the total comes to Rs. 7,37,165) along with the applicable interest of Rs. 5,97,105 and 10% penalty of Rs. 73,716.

3.1 This order is challenged by the Appellant in this appeal. The Order in appeal was passed on 26.05.2025. The present appeal was filed on 06.05.2026 within the statutory time limit as extended by the Notifications from time to time.

3.2 In the meanwhile, the Rectification application was considered by the Assistant Commissioner, DGSTO Belagavi and passed a Rectification order on 05.06.2025 and Summary of Rectification in Form GST DRC 08 on 06.06.2025.

Submissions by the Appellant

3.3 Shri Mukund Nyalkalkar, Learned Advocate appeared for the Appellant and made his submissions and also uploaded a written submission, later.

3.4 It was submitted that the order lacked proper legal consideration and violated principles of natural justice. They claimed that their rectification application was improperly handled without a personal hearing, and the order was issued via endorsement. It was also stated that their documentary evidence, including GSTR 9C and purchase ledgers, support their claim of no excess ITC. They contended that the demand was unsustainable, and the interest and penalties imposed were unjustified.

3.5 The Ld Advocate concluded his arguments stating that they had sufficient and satisfactory documents to support their submissions and to justify the contention that there was no excess ITC claimed in GSTR 3B. If they get another opportunity before the Proper officer, they could explain it clearly to the satisfaction of the officer and therefore pleaded for remanding the matter for the interest of justice. Same points were reiterated in the written submission also.

Submissions by the Respondent

3.6 Shri Thippa Nayak, Deputy Commissioner and Departmental Representative for the Respondent appeared before us and submitted that the impugned order was correct, legal and valid.

3.7 It was submitted by the Ld DR that records on file, including GSTR-3B and GSTR-9, show that the Appellant availed ITC of Rs. 7,37,165 in excess; that the excess of Rs 7,37,163 was declared in the Appellant's own annual return, which was based on its audited books; and that the adjudication order and the impugned order should be upheld. It was further submitted that the Appellant had admitted the RCM paid in March 2018 was claimed in April 2018, and the contention regarding this discrepancy was accepted and given effect in the Adjudication Order.

3.8 It was submitted that the records produced by the Appellant confirmed the discrepancy, substantiated the excess claim, and based on which the demand made by authorities; the Adjudication officer maintained that the excess ITC claim was not allowable. It was further submitted that since the Appellant did not make the payment within the time limit, liability, interest, and penalties were being determined under relevant sections. The impugned order upheld the demand for Rs. 7,37,165 under the provisions of CGST/KGST Act, 2017.

3.9 The Ld DR in support of his submissions uploaded a brief written submission and Form GSTR 3B, GSTR 9 and GSTR 9C for the year 2018-19 in respect of the Appellant.

3.10 Issues for consideration

(i) Whether the adjudication order, passed without a personal hearing, is in breach of Section 75(4) of the Act, and if so, whether the defect was cured in the first appeal;

(ii) Whether, on the material on record, the finding that the Appellant availed excess ITC of Rs. 7,37,165 in its GSTR-3B returns for 2018-19 is sustainable;

(iii) What relief should follow?

Discussion and Findings

4.1 We have heard both the parties and perused the records.

4.2 It was submitted by the Ld Advocate that no personal hearing was given by the Adjudicating authority. The contention before the Appellate Authority regarding the violation of natural justice was rejected on the basis that the taxpayer had received notices and filed a written reply, holding that this was sufficient opportunity.

4.3 Sub-section (4) of the Section 75 of the Act makes it mandatory for the authority to provide an opportunity of personal hearing where any adverse decision is contemplated against such person. It reads:

> *(4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty,* ***or where any adverse decision is contemplated against such person.***
>
> [Emphasis supplied]

4.4 The order confirming the demand mentioned in the SCN is an adverse order. Therefore, the Appellant should have been given an opportunity of hearing in person. It was held by the Hon'ble Delhi High Court in *Rohit Vij Proprietor of RRR Enterprises vs Commissioner of GST (W.P.(C) 13848/2021), 2026 (10) TMI 232* that where the proper officer proposes to make an adverse order to such person, an opportunity of personal hearing shall be granted. The Hon'ble Allahabad High Court also held in *Bharat Mint and Allied Chemicals v. Commissioner Commercial Tax 2022 (3) TMI 492* that if an adverse order is being planned, a personal hearing must be given regardless of whether the taxpayer requested it.

4.1 Section 75(4) of the Act specifically provides that an opportunity of hearing shall be granted where any adverse decision is contemplated against such person**.** The Appellate

authority held that the written reply was enough. We are unable to agree to this position. Section 75(4) gives a hearing as a separate right, and a written reply does not take its place. Nor was the defect cured in the first appeal. Further the appellate authority did not examine the GSTR-9C, the books or the Appellant's reconciliation, but adopted the Department's figures. Failure of the Adjudicating authority to provide an opportunity for a personal hearing before passing an adverse tax demand completely goes against the relevant provisions of the statute. Consequently, on this ground the Adjudication Order and the impugned order that upheld the Adjudication Order cannot sustain. Issue (i) is answered in favour of the Appellant.

4.5 The issue on merit to be decided here is whether the Appellant availed excess ITC of Rs. 7,37,165 in their GSTR 3B returns filed for the period April 2018 to March 2019.

4.6 The origin of the issue found from the audit of the records maintained by the Appellant under GST for the year 2018-19. The issue was part of the revised audit observation issued by the Assistant Commissioner of Commercial Taxes (Audit 7) Belagavi dated 16/02/2023. Para (2) of the audit observation which is relevant here reads:

> *(2) Further on detail verification of the documents filed and Annual Return in form 9 and 9C it is observed the following discrepancies:-*
>
> *RCM ITC Credit:*
>
> *The RTP has paid the RCM output tax in the GSTR-3B at Rs. 27,74,628=00 whereas, the RTP has claimed RCM ITC at Rs. 28,48,672. This resulted in excess claim of RCM ITC of Rs. 74,044=00.*
>
> *Inward supply-Excess ITC claimed:*
>
> *On verification of GSTR 3B with reference to GSTR 9 and books of accounts it is observed that the RTP has claimed excess ITC of Rs. 7,31,165=00 (Excluding RCN)* (Read as RCM)
>
> *ITC as per Books* *Rs. 7,14,28,583=00*

ITC as per GSTR 3B *Rs. 7,21,65,748=00*

Excess ITC claimed *Rs. 7,37,165=00*

4.7 It was submitted by the Ld Advocate for the Appellant that they had submitted detailed reply clarifying the actual credit availed and justified that there was no excess ITC availed as alleged in the notice. The reply was extracted in the Order for reference. It was submitted in the reply that "*Form GSTR-9 was prepared by taking into consideration of related particulars available with documents in the books of accounts. So figures mentioned in the GSTR-9 stated to be through mistake oversight cannot be acceptable and hence rejected*". The reply further provided a statement with details of ITC availed based on payment through RCM and Regular ITC claimed in GSTR-3B. According to the statement they had availed Regular ITC of Rs. 7,21,65,748 and Total ITC availed based on payment through RCM of Rs. 28,48,672 in GSTR 3B for the period April 2018 to March 2019. It claimed that there was no excess ITC claimed by them. It was also stated in the reply that they generally claim amount paid towards RCM as ITC during the following month. It further stated that no Excess ITC of Rs 74,044/- as alleged in the notice was claimed on account of payment through RCM during that period.

4.8 It was further submitted by the Appellant in their reply that as per GSTR 3B they had availed Total GST Credit Rs. 7,26,90,006 and not Rs. 7,21,65,748 as mentioned in the notice. They have in detail explained the reason for such difference. They had presented a computation statement as follows:

Particulars.	*CGST*	*SGST*	*IGST*	*Total Rs*
ITC as per Audited Books of Account	*2,38,05,392.36*	*2,38,05,395.38*	*2,50,78,892.08*	*7,26,89,679.82*
ITC availed as per GSTR 3B	*2,38,06,325.50*	*2,38,06,325.50*	*2,50,77,355.00*	*7,26,90,006.00*
ITC as Per GSTR 9/9C	*2,32,15,509.00*	*2,32,15,509.00*	*2,50,66,838.00*	*7,14,97,856.00*

4.9 They had also furnished in their reply the following data extracted from GST portal:

(i) ITC claimed on inward RCM supplies in GSTR-3B [as per table 4(A)(2) + 4(A)(3)]: to establish that the total credit availed based on payment through RCM claimed by them in GSTR 3B Return was only Rs. 23,24,413. Actual credit available therefore should be Rs 23,24,413 + Rs. 5,24,259 = Rs. 28,48,672. It was also submitted that in Books of Accounts they had Separate Ledger for RCM Tax Receivable and RCM Tax Payable, which according to them showed RCM credit correctly ie Rs. 28,48,672.

(ii) Reverse charge liability declared in GSTR-3B [as per table 3.1(d)]: to substantiate that they had not claimed any excess ITC under RCM

(iii) ITC claimed in GSTR-3B during the month [as per table 4A(4) + 4A(5)- 4B(1) - 4B(2)]: to establish that they had availed only the eligible ITC.

4.10 Further regarding difference in credit availed based on payment through RCM of Rs.74,044 they had furnished tax period wise details of Reverse charge liability declared and Input tax credit claimed thereon. For this purpose, they had compared (a) ITC claimed on inward RCM supplies in GSTR-3B [as per table 4(A)(2) + 4(A)(3)] and (b) Reverse charge liability declared in GSTR-3B [as per table 3.1(d)] for 'Closing RCM Tax for FY 2017-18' & 'Opening RCM Tax for FY 2019-20' and established that there was no excess claim of ITC of Rs.74,044 under RCM head during 2018-19. This contention was accepted and that issue was closed. But no attempt was made to examine the correct ITC available and availed during the period April 2018 to March 2019.

4.11 The proper officer rejected the reply, holding that GSTR-9 had been prepared from the books and that the plea of a mistake in it could not be accepted.

4.12 The Respondent rejected the contention of the Appellant that there was no excess claim of ITC of Rs 7,37,165 based on the following computation:

The RTP has claimed ITC GSTR-3B

Colum 4A(5) Inclusive of RCM

Input tax for April-2018 Rs. 2,93,039-00

May-2018 Rs. 2,31,220-00

Total Rs. 5,24,259-00

*The total ITC claimed in GSTR-3B Colum No. 4A (3) (*sic*) inclusive of R.C.M. Input noted at supra…… Rs. 7,26,90,007-00*

So RCM input mingled at Supra to be minus ….. Rs. 5,24,259-00

Actual input tax credit as per inward Supply to be claimed in GSTR-3B Rs. 7,21,65,748-00

*Further, it is depict (*sic*) from the verification of statement at page No. 74 available in the case file the RTP has admitted that he has excess availed the TIC (*sic*) of 7,37,163-00. So, after deducting the excess amount of ITC availed (i.e. Rs. 7,21,65,748 – Rs. 7,37,163-00 = Rs. 7,14,28,585-00) Therefore, the ITC claimed in GSTR-09 is at Rs. 7,14,28,585-00 is as per books of accounts audited by the appropriate person.*

4.13 We found from the above computation that Rs 5,24,259 was deducted from the ITC entry in table 4(A)(5). The Form GSTR 3B requires credit availed based on payment through RCM, other than on imports, to be shown in 4(A)(3) and not in 4(A)(5). But the form tells us where the credit ought to have been reported, not where it was reported. Whether the Appellant reported credit availed based on payment through RCM of Rs. 5,24,259 in table 4(A)(5) is a question of fact. The Adjudicating authority answered it without examining the returns for April

and May 2018 and without hearing the Appellant, who denies it. It must be verified from those returns.

4.14 Further the comparison was done between *Column No. 4A (5) All other ITC* of GSTR 3B (after reducing the credit availed based on payment through RCM included in it) and Part III 6 B - *Inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs)* of GSTR 9 and confirmed that there was an excess availment of ITC of Rs. 7,37,163. This is not correct. *Column No. 4A (5) All other ITC* of GSTR 3B (after reducing the credit availed based on payment through RCM included in it) is Rs. 7,21,65,748-00. Part III 6 B - *Inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs)* of GSTR 9 is Rs. 7,14,97,856.00 (CGST of Rs. 2,32,15,509; SGST of Rs. 2,32,15,509 and IGST of Rs. 2,50,66,839). The difference is Rs. 6,67,890 and not Rs. 7,37,163.

4.15 Further the Order also records that the Appellant had accepted the excess availment of ITC of Rs 7,37,163 which vehemently contested by the Appellant. The Appellant denies this, and has consistently maintained that there was no excess ITC and that the demand rests on a mistake in its GSTR-9, which they would be able to reconcile now.

4.16 The Adjudication order therefore suffers from three infirmities. Firstly, it considered that RCM ITC of Rs 5,24,259 was included in table 4(A)(5) of the GSTR 3B without verifying this from the returns.; Secondly, it recorded that the Appellant had accepted the excess claim of ITC of Rs 7,37,163/- which the record does not show.; Thirdly, when the Appellant repeatedly averred that there was a mistake in capturing the correct ITC in GSTR 9 and the actual ITC availed was available in the Books of accounts, that plea was rejected without looking at the books.

4.17 We have attempted to examine the data available in Form GSTR 9- Annual Return and in Form GSTR 9C – Reconciliation statement. Part III of the GSTR 9 captured the details of ITC for the financial year. Relevant tables read:

Part III	Details of ITC for the financial year				
Srl No.	Description	Type	CGST	SGST	IGST
6 A	Total amount of input tax credit availed through FORM GSTR-3B (sum total of Table 4A of FORM GSTR-3B)		2,49,51,818.50	2,49,51,818.50	2,51,10,782.00
B	Inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs)	Inputs	2,32,15,509.00	2,32,15,509.00	2,50,66,838.00
C	Inward supplies received from unregistered persons liable to reverse charge (other than B above) on which tax is paid & ITC availed	Inputs	14,07,139.00	14,07,139.00	34,394.00
I	Sub-total (B to H above)		2,46,22,648.00	2,46,22,648.00	2,51,01,232.00
J	Difference (I - A above)		(-) 3,29,170.50	(-) 3,29,170.50	(-) 9,550.00
O	Total ITC availed (I + N above)		2,46,22,648.00	2,46,22,648.00	2,51,01,232.00

4.18 The Form GSTR 9 filed on 20.08.2020 shows a difference of ITC of Rs. 6,67,891 (CGST of Rs. 3,29,170.50, SGST of Rs. 3,29,170.50 and IGST of Rs 9,550.00) between the ITC availed asper GSTR 3B (Rs. 7,50,14,419) and total ITC available under general ITC and under RCM (Rs. 7,43,46,528). We could not see these numbers in audit observation or in the notice. Even in adjudication process also these numbers were not cross verified from the GSTR 9 or GSTR 3B Returns. The Appellant, for its part, did not explain in GSTR-9C the difference shown in Table 6J of its own GSTR-9; yet its GSTR-9C shows no excess ITC.

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4.19 We have also compared the Form GSTR 9 furnished by the Appellant and the Respondents as part of the Appeal and as part of the cross objection. The copy of GSTR-9 filed by the AR differs from the copy filed by the Appellant. It is observed that rows M, N, O under Part III, Table 6 are at variance.

4.20 The Appellant had told the authorities that there was an error in noting the numbers regarding the ITC availed and available in Form GSTR 9. Instead of rejecting the statement made by the Appellant on the face of it, the Adjudicating Officer ought to have called for the books and examine whether the data fed in the Annual Return was correct or not. Section 44 of CGST Act and Rule 80 of the CGST rules deals with the provisions related to filing of Annual Return under the GST law. Neither Section 44 nor Rule 80 provides for a procedure to rectify the Form GSTR 9 once it is filed. Once submitted, GSTR-9 cannot be edited, modified, or re-filed online on the GST Portal.

4.21 The Appellant itself reported the figures in GSTR 9 and now disowns. The burden of proving its claim to the credit lies on the Appellant under Section 155 of the Act. Section 155 reads:

> *"Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person."*

4.22 The Appellant now submitted its reply without placing its books before the authority. It must discharge that burden with its books and invoices, and the authority should give an opportunity to do so.

4.23 A genuine, inadvertent error in a return must be recognised as such. It was held by the Hon'ble Supreme Court in *Central Board of Indirect Taxes and Customs v. Aberdare Technologies (P) Ltd*. 2025 SCC OnLine SC 1323 while disposing of the Special Leave Petition

(Civil) filed by the CBIC against the judgement of Mumbai High Court in M/s Aberdare Technologies Private Limited & Ors Vs Central Board of Indirect taxes and Customs & Ors, that considered the bonafide errors in Form GSTR 1 and 3B, observed that:

> *Human errors and mistakes are normal, and errors are also made by the Revenue. Right to correct mistakes in the nature of clerical or arithmetical error is a right that flows from right to do business and should not be denied unless there is a good justification and reason to deny benefit of correction.*

4.24 It was also held by the Hon'ble Supreme Court in *Union of India v. Bharti Airtel Ltd. (2022) 4 SCC 328* that returns under the Act are self-assessed and must be corrected within the scheme of the Act.

4.25 The GST regime as contemplated under the GST Law, has evolved and established in electronic domain called GST portal. Tax payer needs to adapt to the highly complicated system based compliance in the portal. In the process there are likely to be inadvertent and bona fide human errors. The law treats a bona fide error in a return as an error, not as a source of tax.

4.26 The Appellant itself reported the figures in GSTR 9 and now disowns by stating that it was an error. The burden of proving its claim to the credit lies on the Appellant under Section 155 of the Act which reads:

> *"Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person."*

4.27 The Appellant now submitted its reply without placing its books before the authority. It must discharge that burden with its books and invoices, and the authority should give an opportunity to do so.

4.28 The Ld Advocate appeared for the Appellant prayed before us that they may be given a chance to produce the Books, and all the returns referred above before the Proper officer to prove their case.

4.29 In terms of Sub-section (1) to Section 113 the Appellate Tribunal may, after hearing the parties, pass orders, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the Appellate Authority, or the Revisional Authority or to the original adjudicating authority, with directions as the Tribunal think fit, for a fresh adjudication or decision after taking additional evidence, if necessary.

4.30 The demand rests on a comparison between two returns; the ITC in GSTR-3B, after deducting credit available on the tax paid through RCM said to belong to the previous year, and the ITC in GSTR-9. A mismatch between two returns of the Appellant is a good reason to examine the records. It is not, by itself, proof that credit was availed in excess. When the Appellant submits that one return is wrong and offers its books to prove it, in our consideration the examination that the mismatch called for was not made.

4.31 On remand, the Appellant can produce the Books of accounts, GSTR 3B along with the computation of value of inward and outward supplies, eligible and ineligible ITC available month wise, GSTR 9 for the year 2018-19. The adjudicating authority can call for all documents related to ITC and examine the available and availed ITC for the year 2018-19. To examine the actual ITC available for the year 2018-19, it may also check the ITC brought forward from 2017-18 to 2018-19 and carried forward from 2018-19 to 2019-20. We therefore consider in the interest of justice to remit the matter back to the Adjudicating Authority Officer with directions. Since the matter goes back for fresh adjudication, we express no final view on whether the Appellant availed excess credit or otherwise. Our observations are confined to the defects in the orders under appeal.

ORDER

5.1 For these reasons, the impugned order and the Adjudication order are set aside, and the matter is remanded, in the interest of justice, to the Adjudicating Authority for fresh, reasoned adjudication in accordance with the law, on the terms set out below.

(i) The Order no. Acct/A-7/Bgm/27/2023-24 Date: 30.09.2023 for the period April 2018 to March 2019 passed by the Asst Commissioner of Commercial Taxes (Audit) -7 Belagavi, with the summary in Form GST DRC-07 dated 09.10.2023, is set aside.

(ii) The impugned Order No: GST-278/2023-24 dated 26.05.2025 for the period April 2018 to March 2019 passed by the Joint Commissioner of Commercial Taxes (Appeals), Belagavi under Section 107(11) of the Act is set aside.

(iii) The rectification order communicated in Form GST DRC-08 dated 05.06.2025, to the extent it relates to the demand in this appeal, is also set aside.

(iv) Consequently, the demand of tax, interest and penalty stands set aside.

(v) The matter is remanded to the Adjudicating Authority for fresh adjudication, strictly confined to the show cause notice issued in Form GST DRC-01 dated 30.06.2023. The adjudicating authority shall decide afresh, uninfluenced by the findings in the orders now set aside or by any observation in this order on the merits.

(vi) The Adjudicating Authority shall not travel beyond the heads (IGST, CGST or SGST) and grounds set out in that notice or confirm, or propose to confirm, any tax, interest or penalty exceeding the amount specified in that notice, under any head or on any ground whatsoever.

(vii) **The Appellant shall, within thirty days of receipt of this order, produce its books of accounts; month-wise registers of eligible and ineligible ITC; its GSTR-3B returns for 2018-19 with the working papers; Forms GSTR-9 and GSTR-9C as filed on the portal; its RCM tax payable and receivable ledgers, including the RCM paid in March 2018 and claimed in April and May 2018; and details of credit brought forward from 2017-18 and carried forward to 2019-20. The adjudicating authority may call for any further document it needs in connection with this adjudication proceedings.**

(viii) **The adjudicating authority shall first determine, from the portal, which Form GSTR-9- Annual Return was filed by the Appellant, and compute any difference from that return.**

(ix) **The Adjudicating Authority shall complete the adjudication process as per the procedure provided under the Act and pass the order within 3 months from the date of receipt of this order.**

5.2 The appeal is disposed of in these terms.

Order pronounced on 30th October 2026.

Ravi Jesuraj S
Member (Technical)

Prabhakaran P M
Member (Judicial)

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