GOODS AND SERVICES TAX APPELLATE TRIBUNAL
PUNE BENCH

APL/9/PUN/2026

M/s INDERMAL AIDANMAL OSWAL, PUNE **…….Appellant**

Versus

THE COMMISSIONER OF CENTRAL TAX, PUNE-II **…….Respondent**

Quorum:
Hon'ble Shridhar Mahadeo Bhosale, Member (Judicial)
Hon'ble Dr. Nirmal Kumar Soren, Member (Technical)

Counsel for Appellant	**Counsel for Respondent**
Shri Rahul Jain, Chartered Accountant	Shri Lokesh Sharma, Assistant Commissioner

FINAL ORDER

Date of Last Hearing: 05.10.2026
Date of Order: 29.10.2026

Per: Dr. Nirmal Kumar Soren, Member (Technical):

The Appeal

1. The present appeal has been filed by M/s Indermal Aidanmal Oswal, a proprietary concern of Shri Indermal Aidanmal Oswal trading as Bhikaji Aidanmalji (hereinafter "the Appellant"), under Section 112(1) of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 (together, for short, "the CGST Act"; the provisions of the two Acts being identical, a reference to one includes the corresponding provision of the other), read with Section 20 of the Integrated Goods and Services Tax Act, 2017 ("the IGST Act"). It is directed against Order-in-Appeal No. PUN-CT-APPII-ADC-000-229-2024-25 dated 25.11.2024 ("the impugned order") passed by the Additional Commissioner (Appeals-II), Central Tax, Pune. By the impugned order, the Appellant's first appeal against Order No. PUN-II-CGST-SUPDT-DI-R-II/11/2023-24 dated 25.01.2024 ("the OIO") passed

by the Superintendent, Range-II, Central GST, Division-I (Shivaji Nagar), Pune-II Commissionerate for the period April 2018 to March 2019 was partly allowed. The Respondent is the Commissioner of Central Tax, Pune-II (hereinafter "the Respondent").

2. By the impugned order, the first appellate authority confirmed the demand of input tax credit ("ITC") of Rs. 31,115/- (IGST) with interest under Section 50, and the demand of interest of Rs. 3,80,408/- (IGST Rs. 3,59,786/-, CGST Rs. 10,311/- and SGST Rs. 10,311/-) on ITC availed in respect of supplies for which the value and tax were not paid to the suppliers within one hundred and eighty days from the date of the invoice, and reduced the penalty from Rs. 48,040/- to Rs. 20,000/-.

Brief Facts

3. The Appellant is registered under the CGST Act (GSTIN 27AABPO2946E1ZT) and is engaged in the trading of plywood, veneered panels and similar laminated wood. On an audit of its records for the period 01.07.2017 to 31.03.2020 by the Central GST Audit-II Commissionerate, Pune, two objections were communicated to it by letter dated 07.06.2022, namely, that ITC had been availed on invoices of a supplier whose registration had been cancelled with retrospective effect, and that interest had not been paid on ITC relating to supplies for which the suppliers had not been paid within one hundred and eighty days. In its reply dated 13.06.2022, the Appellant contested both objections, contending that the supplier was active when the credit was taken and had filed its returns up to November 2018, and that the credit had been taken after satisfying the conditions of Section 16(2) and the tax had been paid by the supplier, so that a reversal would amount to double taxation.

4. By Show Cause Notice No. CGST/Audit-II/Supdt/117/IAO/ 2022-23 dated 10.03.2023 issued under Section 73(1) ("the SCN"), the Appellant was called upon to show cause why (a) ITC of Rs. 31,115/- (IGST), availed on eight invoices of Shanmukh Traders dated 18.07.2018 to 16.10.2018, should not be recovered with interest and penalty, the supplier's registration having been cancelled with effect from 03.07.2017; and (b) interest of Rs.

3,80,408/- should not be recovered, with penalty, on ITC relating to supplies for which the suppliers had not been paid within one hundred and eighty days. For the second demand, the SCN relied on the second proviso to Section 16(2) and on Rule 37.

5. By the OIO, the adjudicating authority confirmed the demand of ITC of Rs. 31,115/- (IGST) with interest under Section 50 and the demand of interest of Rs. 3,80,408/- under Section 50(3), and imposed penalties under Section 73(9) read with Section 122(2)(a) of Rs. 10,000/- on the ITC demand and Rs. 38,040/- on the interest. The order was passed after a personal hearing on 21.04.2023 and three further opportunities, on 31.10.2023, 07.11.2023 and 22.11.2023, at none of which the Appellant appeared.

6. The Appellant filed its first appeal on 09.04.2024. Earlier, on 13.02.2024, it had applied for rectification of the summary of the OIO in FORM GST DRC-07, which showed Rs. 3,90,901/- as IGST tax instead of Rs. 31,115/- (ARN AD2702240229339).

7. The first appellate authority framed two issues: whether the ITC of Rs. 31,115/- was admissible, and whether the interest of Rs. 3,80,408/- had been rightly confirmed. On the first, it found that the Appellant had not produced the tax invoices, proof of payment or supplier's certificate needed to establish the conditions of Section 16(2), the burden of which lay on it under Section 155. It held that the decisions cited by the Appellant did not assist it in the absence of such documents, and that interest on the credit followed. On the second, it held that, the suppliers not having been paid within one hundred and eighty days, the Appellant was required to reverse the credit with interest under Section 50. It then took up the penalty. It found that the minimum penalty on the ITC demand, aggregated under the proviso to Section 20 of the IGST Act, was Rs. 20,000/-, and that the penalty levied on the interest could not stand.

8. On 21.01.2025, the Appellant paid Rs. 31,115/- (IGST) for 2018-19 through FORM GST DRC-03 (ARN AD2701250586060), by debit to its electronic credit ledger and without interest.

9. The present appeal was filed on 02.03.2026 and registered as APL/9/PUN/2026 on 24.07.2026.

Contentions of the Parties

The Appellant

10. The grounds of appeal raise four contentions. It is contended, first, that the summary in FORM GST DRC-07 showed IGST tax of Rs. 3,90,901/- in place of Rs. 31,115/-, the interest having been entered in the tax column; that the pre-deposit was computed on that figure; and that the application for rectification had not been acted upon. It is contended, next, that the Appellant satisfied every condition of Section 16(2) in respect of the invoices of Shanmukh Traders, and that the tax demanded should be adjusted against the excess pre-deposit. On the interest, it is contended that Rule 37, as it stood for 2018-19, required the details to be furnished in FORM GSTR-2, which was never made operational, so that compliance in the prescribed manner was impossible. It is further contended that, since Rule 37(3) runs interest until the amount added to the output tax liability is paid, and there was no means of adding it, no interest can be charged; and that the amendment of Rule 37 by Notification No. 26/2022-Central Tax dated 26.12.2022, effective from 01.10.2022, does not apply to the period. Lastly, it is contended that the Appellant faced financial hardship during the COVID-19 pandemic and had agreed with its suppliers to pay them after two years, so that there was no "failure to pay". The Appellant prays that the impugned order be set aside, the interest and penalty quashed, and the excess pre-deposit adjusted.

The Respondent

11. In its reply dated 01.09.2026, furnished through the Assistant Commissioner, CGST, Division-I (Shivaji Nagar), Pune-II Commissionerate, the Respondent states that the GSTN back-office portal shows the payment of Rs. 31,115/- (IGST) for April 2018 to March 2019 by DRC-03 (ARN AD2701250586060), with nil interest and penalty. On the interest, it is contended that, even if the Appellant had no means of reversing the credit, Rule 37 required it to pay an amount equal to the credit, with interest under Section 50, in the return in FORM GSTR-3B for the tax period following the expiry of one hundred and eighty days from the date of the invoice. It is contended that the Appellant thus had the option of paying the liability in respect of the supplies not paid for within that period. It

is further contended that Notification No. 26/2022-Central Tax only added the option of reversal to make compliance easier, the mechanism having existed in Rule 37 before it. The reply does not deal with the ITC of Rs. 31,115/-.

Proceedings before the Tribunal

12. The appeal was heard on 28.07.2026, 11.08.2026, 24.08.2026, 08.09.2026, 18.09.2026 and 05.10.2026. The learned Authorised Representative for the Appellant reiterated the grounds of appeal. He made no submission on the computation of the interest of Rs. 3,80,408/-. He informed the Bench that the summary in FORM GST DRC-07 has since been rectified. Shri Lokesh Sharma, Assistant Commissioner, appeared for the Respondent and reiterated its reply. On 26.10.2026, when the matter was listed for orders, none appeared for the Appellant; Shri Lokesh Sharma appeared for the Respondent, and the matter was adjourned to 29.10.2026 for pronouncement.

Points for Determination

13. Having heard both sides and perused the record, we find that the following points arise for determination:

(i) Whether the denial of ITC of Rs. 31,115/-, with interest, calls for interference;

(ii) Whether the Appellant is liable to interest of Rs. 3,80,408/- for not paying its suppliers within one hundred and eighty days during 2018-19;

(iii) Whether the penalty of Rs. 20,000/- calls for interference; and

(iv) Whether the ground relating to the summary in FORM GST DRC-07 survives.

Discussion and Findings

Point (i): the ITC of Rs. 31,115/-

14. The SCN proposed the recovery on the footing that, the supplier's registration having been cancelled with effect from 03.07.2017, the tax charged on the invoices may not have been paid

to the Government, so that clause (c) of Section 16(2) was not satisfied (para 3.3). The Appellant's answer, as noted in paragraph 3, was that the supplier was active when the credit was taken. The first appellate authority rested its finding not on the cancellation but on the absence of any document establishing the conditions of Section 16(2) (paragraph 7 above).

15. Section 155 of the CGST Act provides:

> 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.

16. Before us, the ground is pleaded as a bare assertion that the conditions of Section 16(2) were satisfied. No invoice, record of payment to Shanmukh Traders, evidence of transport or receipt of the goods, or ledger of the supplier has been filed, and no further material was placed at the hearing. The grounds themselves ask that the tax be adjusted against the excess pre-deposit, and the Appellant has since paid it (paragraph 8 above). On this record, the Appellant has not discharged the burden that Section 155 casts on it. We do not, therefore, decide whether the retrospective cancellation of a supplier's registration can by itself justify the denial of credit.

17. Interest under Section 50 is consequential on the confirmation of the credit. The OIO confirmed it "at applicable rates" without quantifying it (para 11(ii)), and the first appellate authority upheld it. The proper officer shall quantify it in accordance with Section 50. Point (i) is answered in the negative.

Point (ii): interest of Rs. 3,80,408/-

18. For the period in dispute, the second and third provisos to Section 16(2), as they stood before their amendment by the Finance Act, 2023 with effect from 01.10.2023, read:

> Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

> Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

19. Rule 37, as it stood before its amendment by Notification No. 19/2022-Central Tax dated 28.09.2022 with effect from 01.10.2022, provided, so far as is material:

> (1) A registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to pay to the supplier thereof, the value of such supply along with the tax payable thereon, within the time limit specified in the second proviso to sub-section (2) of section 16, shall furnish the details of such supply, the amount of value not paid and the amount of input tax credit availed of proportionate to such amount not paid to the supplier in FORM GSTR-2 for the month immediately following the period of one hundred and eighty days from the date of the issue of the invoice: …
>
> (2) The amount of input tax credit referred to in sub-rule (1) shall be added to the output tax liability of the registered person for the month in which the details are furnished.
>
> (3) The registered person shall be liable to pay interest at the rate notified under sub-section (1) of section 50 for the period starting from the date of availing credit on such supplies till the date when the amount added to the output tax liability, as mentioned in sub-rule (2), is paid.

20. The impugned order quotes the second proviso and Rule 37 in their amended forms (paras 9.2–9.3), and the Respondent's reply quotes Rule 37 in the same form. Those versions do not apply to 2018-19, and the Appellant is right that the amendments, including Notification No. 26/2022-Central Tax, do not govern the period in dispute. That does not, however, assist the Appellant. The SCN set out the provisions as they stood for that period (paras 4.2–4.3). Under them, as under the amended text, where a recipient did not pay the supplier within one hundred and eighty days, an amount equal to the credit was to be added to its output tax liability, with interest.

21. The liability to interest arises under the Act itself. The second proviso provides that, where the supplier is not paid within one hundred and eighty days, an amount equal to the credit "shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed". What was left to the Rules was only the manner. The non-operation of FORM GSTR-2 affected the

mode of reporting, not the liability that the proviso creates. Throughout the period, returns were furnished in FORM GSTR-3B, which provided for the reversal of credit, and any amount due could be paid voluntarily under Section 73(5), with intimation in FORM GST DRC-03 under Rule 142(2). It is not the Appellant's case that it attempted to reverse the credit or pay the interest and was prevented from doing so. The maxim lex non cogit ad impossibilia has no application where compliance was possible and was not attempted.

22. It is argued that, since Rule 37(3) runs interest only "till the date when the amount added to the output tax liability … is paid", no interest can run where the amount was never added. That reading would make the liability depend on the recipient's own default: a recipient who reversed the credit would pay interest, while one who did not would escape it. A provision is not to be read so as to let a person take advantage of its own default. Sub-rule (3) runs interest "from the date of availing credit", and the end-point it fixes assumes compliance with sub-rules (1) and (2). It cannot be invoked by a recipient who did not comply, to extinguish the liability.

23. The Appellant's eventual payment of its suppliers does not assist it. The third proviso entitles a recipient to avail the credit again once it pays the supplier. The scheme therefore contemplates late payment: the credit is reversed with interest when the period expires, and re-availed on payment. The failure of which the second proviso speaks is a failure to pay "within a period of one hundred and eighty days", not a failure ever to pay. Were it otherwise, the third proviso would have nothing to operate on. The contrary argument, advanced before the first appellate authority and repeated in the grounds, cannot be accepted.

24. The pleas of financial hardship during the COVID-19 pandemic and of an agreement with the suppliers to pay after two years do not assist the Appellant. The period of one hundred and eighty days is fixed by the second proviso. It cannot be enlarged by agreement between the supplier and the recipient, and no relaxation of that period is shown to apply to the invoices of 2018-19.

25. The Appellant has not disputed the computation of the interest at any stage, whether before the adjudicating authority, the first appellate authority or this Tribunal. It has not challenged the period, the invoices or the arithmetic on which the demand rests.

26. Point (ii) is answered in the affirmative. The interest of Rs. 3,80,408/- is payable.

Point (iii): penalty

27. Section 73(9) of the CGST Act provides for "a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher". As regards integrated tax, the fourth proviso to Section 20 of the IGST Act reads:

> Provided also that in cases where the penalty is leviable under the Central Goods and Services Tax Act and the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, the penalty leviable under this Act shall be the sum total of the said penalties.

28. Ten per cent of the tax of Rs. 31,115/- is Rs. 3,111.50, which is below the minimum of Rs. 10,000/-. The penalty under each of the Central and State Acts is therefore Rs. 10,000/-, and under the IGST Act, by virtue of the fourth proviso, Rs. 20,000/-. That is the penalty the impugned order imposed. No ground is urged against the penalty as such. Its setting aside is sought only as consequential relief, and that prayer fails with the other grounds. Point (iii) is answered in the negative.

Point (iv): the summary in FORM GST DRC-07

29. The first ground concerned the summary in FORM GST DRC-07, which showed Rs. 3,90,901/- as tax although the OIO fixes the tax at Rs. 31,115/- and states the interest separately (paragraph 6 above; OIO para 11). The learned Authorised Representative for the Appellant informed us at the hearing that the summary has since been rectified. That ground therefore does not survive. The adjustment of the pre-deposit, which the Appellant also seeks, is provided for in the operative directions below. Point (iv) is answered in the negative.

Order

30. In view of the above findings, the following order is passed:

(a) The appeal is dismissed.

(b) The impugned order dated 25.11.2024 is upheld.

(c) The demand accordingly stands determined as follows: tax of Rs. 31,115/- (IGST); interest under Section 50 on that tax (IGST), to be quantified as stated in paragraph 17; interest of Rs. 3,80,408/- (IGST Rs. 3,59,786/-, CGST Rs. 10,311/- and SGST Rs. 10,311/-) on ITC relating to supplies not paid for within one hundred and eighty days; and penalty of Rs. 20,000/- (IGST).

(d) The proper officer shall quantify the interest on the tax, adjust the pre-deposit of Rs. 39,091/- (debit entry DI2704240020305 dated 09.04.2024) and the payment of Rs. 31,115/- made by DRC-03 (ARN AD2701250586060 dated 21.01.2025) against the demand so determined, and communicate to the Appellant the balance payable, if any.

(e) No order as to costs.

(Final Order pronounced in the open court on 29.10.2026)

(Dr. Nirmal Kumar Soren)
Member (Technical)

(Shridhar Mahadeo Bhosale)
Member (Judicial)

Dated: 29.10.2026

FORM GST APL-04A

[See rule 113(2)]

Summary of the order and demand after issue of order by the Goods and Services Tax Appellate Tribunal

	Whether remand order	No
	Order Reference No.	
	Date of order	29.10.2026
1.	**GSTIN / Temporary ID / UIN**	27AABPO2946E1ZT
2.	**Appeal Case Reference No. / Date**	APL/9/PUN/2026 dated 24.07.2026
3.	**Name of the appellant**	M/s Indermal Aidanmal Oswal, Pune (trade name: Bhikaji Aidanmalji)
4.	**Name of the Respondent**	The Commissioner of Central Tax, Pune-II
5.	**Order appealed against** **(a) Order Type** **(b) Ref. Number / Date**	(a) Demand (b) Order-in-Appeal No. PUN-CT-APPII-ADC-000-229-2024-25 dated 25.11.2024, passed by the Additional Commissioner (Appeals-II), Central Tax, Pune (arising from Order No. PUN-II-CGST-SUPDT-DI-R-II/11/2023-24 dated 25.01.2024)
6.	**Personal Hearing (all hearing dates)**	28.07.2026, 11.08.2026, 24.08.2026, 08.09.2026, 18.09.2026 and 05.10.2026
7.	**Status of Order under Appeal**	Confirmed

8. Order in brief

The appeal against Order-in-Appeal dated 25.11.2024 (period April 2018 to March 2019) is dismissed and the Order-in-Appeal is upheld. (i) ITC of Rs. 31,115/- (IGST) availed on invoices of a supplier whose registration was cancelled with retrospective effect: denial upheld, the Appellant not having discharged the burden under Section 155 of the CGST Act; the tax has been paid by DRC-03 dated 21.01.2025. Interest under Section 50 on this amount is to be quantified by the proper officer. (ii) Interest of Rs. 3,80,408/- (IGST Rs. 3,59,786/-, CGST Rs. 10,311/-, SGST Rs. 10,311/-) on ITC relating to supplies not paid for within 180 days: upheld under the second proviso to Section 16(2) of the CGST Act read with Rule 37(3) of the CGST Rules as then in force; the non-operation of FORM GSTR-2 does not extinguish the liability. (iii) Penalty of Rs. 20,000/- (IGST) under Section 73(9) of the CGST Act read with the fourth proviso to Section 20 of the IGST Act: upheld. (iv) The ground relating to FORM GST DRC-07 does not survive, the summary having been rectified. The proper officer shall quantify the interest at (i), adjust the pre-deposit of Rs. 39,091/- (09.04.2024) and the payment of Rs. 31,115/- by DRC-03 (21.01.2025) against the demand so determined, and communicate the balance payable, if any. No order as to costs.

9. If demand order, then whether demand quantified: Yes — except interest under Section 50 on the tax of Rs. 31,115/-, which is to be computed by the proper officer (see item 8).

Interest under Section 50 on the tax of Rs. 31,115/- (IGST) is not included in Section-I; it is to be computed by the proper officer. Disputed amounts are those confirmed by the Order-in-Appeal. The Appellant's FORM GST APL-05 shows interest in dispute as Rs. 4,01,030/-, which counts the CGST and SGST interest twice.

Section-I

Particulars	Central tax		State/UT tax		Integrated tax		Cess		Total	
	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount
1	2	3	4	5	6	7	8	9	10	11
(a) Tax	0	0	0	0	31,115	31,115	0	0	31,115	31,115
(b) Interest	10,311	10,311	10,311	10,311	3,59,786	3,59,786	0	0	3,80,408	3,80,408
(c) Penalty	0	0	0	0	20,000	20,000	0	0	20,000	20,000
(d) Fees	0	0	0	0	0	0	0	0	0	0
(e) Others	0	0	0	0	0	0	0	0	0	0
(f) Refund	0	0	0	0	0	0	0	0	0	0

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Section-II

Place of Supply / Name of State/UT	Demand	Tax	Interest	Penalty	Other	Total
Andhra Pradesh	Amount in dispute	31,115	3,59,786	20,000	0	4,10,901
Andhra Pradesh	Amount Determined	31,115	3,59,786	20,000	0	4,10,901

Place of supply as recorded in DRC-03 dated 21.01.2025 (supplier GSTIN 37DERPM0149Q1ZN).

10. For other orders and demand orders which are not quantified: Not applicable.

11. If remanded with directions: Not applicable.

Section-III (Anti-profiteering) — 12. Order in brief: Not applicable.

Place: Pune
Date: 29.10.2026

Dr. Nirmal Kumar Soren,
Member (Technical)
GST Appellate Tribunal, Pune Bench