GSTAT

State Bench Agra

Court No. Court I

APL/71/AGR/2026

VIJAY PAL SINGH **.....Appellant**

Versus

CHAUDHARY IRON TRADERS, PROP, 11 NARAYAN NAGAR BODLA LOHAMANDI AGRA UPAGR 282002 **.....Respondent**

Quorum

Hon'ble Ajeet Singh, Member(Judicial)
Hon'ble Vivek Kumar, Member (Technical)

Counsel for Appellant
SH. MUKESH KUMAR, AUTHORIZED REPRESENTATIVE

Counsel for Respondent
SH. SATISH CHANDRA GUPTA, ADVOCATE, ALONG WITH SH. ANURAG GUPTA, ADVOCATE

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. : ZA090401026000213H **Date of order :** 30/10/2026

1.	GSTIN/Temporary ID/UIN - 09AUQPN8236P1ZI	
2.	Appeal Case Reference no. - APL/71/AGR/2026	Date - 17/04/2026
3.	Name of the appellant - VIJAY PAL SINGH , vijay.171967@gov.in , 8979884909	
4.	Name of the respondant - 1. CHAUDHARY IRON TRADERS , arunmangaltax@gmail.com , 7014012814	
5.	Order appealed against - AD090824071542V	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD090625081975P	Date - 26/05/2025
6.	Personal Hearing - 30/10/2026 06/10/2026 17/09/2026 05/08/2026	

7.	Order in brief - Orders passed by Appellate authority as well as order passed by adjudicating authority are set aside and the matter remanded to the proper officer for passing a fresh, reasoned and speaking order in accordance with law.

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
Levy of Penalty		0	Agra Bench
10.	If remanded with directions:		
	a) Remanded to: Adjudicating Authority		
	b) Directions subject to which remanded, if any: The Proper Officer shall afford the respondent taxpayer a reasonable and effective opportunity of personal hearing and permit the respondent to produce the relevant books of account, invoices, transport documents, weighment records, e-way bills, bank records and other supporting evidence concerning the transactions in question and after considering the explanation and evidence furnished by the respondent and complying with the applicable statutory requirements, shall pass a fresh, reasoned and speaking order in accordance with law.		

Place :AGRA

Signature

Date : 30.10.2026

AGRA Sandeep Yadav

Designation : Stenographer/Law researcher

Jurisdiction :Agra

ORDER

Per. Vivek Kumar (Technical Member)

Commissioner State Tax, U.P (Through- Vijay Pal Singh, Assistant Commissioner)

Vs

Chaudhary Iron Store, Lohamandi, Agra

APL/71/AGR/2026

(Passed on 30th day of October, 2026)

1. The present appeal has been preferred by the Commissioner, State Tax, through Shri Vijay Pal Singh, Assistant Commissioner, Sector-09, Agra, under Section 112(3) of the applicable GST Act, challenging the order dated 23.05.2025 passed by the Additional Commissioner, Grade-II (Appeal)-III, Agra, in Appeal No. 2425AAGR000746/2024 for the year 2021-22

2. The facts of the case, in brief, are that the respondent, M/s Chaudhary Iron Traders, obtained registration under the GST law during the financial year 2019–20 for carrying on the business of purchase and sale of iron scrap, plastic scrap and other similar goods.

3. An inspection of the declared principal place of business of the respondent was conducted by the SIB, Unit-B, Agra, on 3.02.2022. At the time of inspection, the business premises were found closed, and a notice stating “Vacant for Rent” was displayed on the premises along with two telephone numbers.

4. Upon contacting one of the telephone numbers, the inspecting officer found that it belonged to Shri Mohd. Ilyas, son of Abdul Salam, resident of 48G/58A, Nai Abadi, Khatena, Agra, who was stated to be the son of the owner of the premises, Smt. Rehana.

5.Shri Mohd. Ilyas informed the inspecting officer that the premises had been let out to Shri Mohd. Naeem, resident of Bari, Rajasthan, with effect from 2.10.2019 at a monthly rent of Rs. 2,500. He further stated that the tenant had vacated the premises approximately two months prior to the inspection, discontinued his business activities, handed over the keys and returned to Rajasthan.

6. The inspecting officer called Shri Mohd. Ilyas to the premises and got the shutter opened. No goods, stock or scrap were found inside the premises. It was stated that the room having the smaller shutter had previously been used as an office.

7. The Proper Officer observed that the respondent had not declared any other godown or place of business. On the basis of the aforesaid inspection and the absence of stock at the declared place of business, the Proper Officer formed the view that the respondent had not carried on genuine trading activities and had merely obtained tax invoices without actual purchases and issued tax invoices without actual sales of goods. Consequently, a penalty of Rs. 44,26,603 was imposed upon the respondent under Section 122(1) of the applicable GST Act.

8. Aggrieved by the order of the Proper Officer, the respondent preferred an appeal before the First Appellate Authority. The First Appellate Authority, vide the impugned order dated 23.05.2025, allowed the appeal and set aside the demand/penalty imposed upon the respondent.

9. Being aggrieved by the aforesaid appellate order, the Department has preferred the present appeal before this Tribunal.

Submissions on Behalf of the Appellant Department

10. Shri Mukesh Kumar, learned Authorised Representative appearing on behalf of the appellant Department, submitted that the impugned order passed by the First Appellate Authority is erroneous both on facts and in law.

11. He contended that the inspection conducted at the declared place of business clearly revealed that the premises did not possess the storage capacity, infrastructure or operational capability required for carrying on scrap trading activities on the scale reflected in the returns filed by the respondent. According to him, these circumstances indicated that no genuine business activities had been carried on by the respondent.

12. It was further submitted that the transactions disclosed in the returns were merely paper entries unsupported by actual supplies of goods. The First Appellate Authority, according to the learned Authorised Representative, failed to appreciate that the respondent had not produced basic supporting documents, such as transport receipts, delivery challans, weighment slips, stock registers and other contemporaneous records, which could establish the actual movement, receipt and delivery of goods.

13. The learned Authorised Representative also contended that material discrepancies in the e-way bills had not been properly examined by the First Appellate Authority.

14. It was further argued that the inspection findings, read with the surrounding circumstances, raised a serious doubt regarding the genuineness of the transactions and indicated that invoices had been exchanged without actual purchases and sales of goods. In the absence of any satisfactory rebuttal supported by documentary evidence, the First Appellate Authority was not justified in allowing the appeal.

15. Accordingly, the learned Authorised Representative prayed that the impugned appellate order be set aside and the departmental appeal be allowed.

Submissions on Behalf of the Respondent Taxpayer.

16. Shri Satish Chandra Gupta, learned counsel appearing on behalf of the respondent taxpayer, controverted the submissions made by the learned Authorised Representative of the Department and supported the order passed by the First Appellate Authority.

He submitted that, at the time of inspection, the person contacted by the inspecting officer had acknowledged that the premises had been let out to the proprietor of the respondent concern and had further stated that the tenant had vacated the premises approximately two months earlier. According to the learned counsel, this statement itself indicated that the respondent had been carrying on business at the premises until approximately two months before the inspection.

17. It was further submitted that, as the business had not been performing satisfactorily, the respondent had discontinued its business activities with effect from 31.12.2021, after disposing of the available stock. Consequently, no stock was present at the premises when the inspection was conducted.

18. The learned counsel further submitted that a horizontal press machine, a cutting machine, tools and other equipment had been installed at the business premises and that purchase invoices relating to such equipment were available.

19. It was also contended that the Department had treated only one of the suppliers relating to inward supplies as non-existent and that the amount relating to the said transaction had already been deposited by the respondent.

20. Regarding the e-way bills, the learned counsel submitted that the requisite particulars under Rule 138 of the applicable GST Rules had been furnished and that no material irregularity had been established in respect thereof.

21. On these grounds, the learned counsel submitted that the departmental appeal was devoid of merit and prayed for its dismissal.

Discussion and Findings.

22.- We have heard the learned Authorised Representative appearing for the appellant Department and the learned counsel appearing for the respondent taxpayer. We have also carefully examined the material available on record and the findings recorded by the authorities below.

23. The principal question requiring determination in the present appeal is whether the respondent had actually carried on genuine trading activities involving the purchase and sale of goods before discontinuing its business, or whether the transactions disclosed in its returns were merely paper entries involving the exchange of invoices without actual movement or supply of goods.

A further question is whether the findings recorded by the Proper Officer and the First Appellate Authority are supported by an adequate examination of the relevant evidence and whether the matter can be finally decided on the material presently available on record.

24. It is evident from the record that the inspection of the declared place of business was conducted on 3.02.2022. The case of the respondent is that business activities had been discontinued approximately two months before the inspection and that the available stock had been disposed of at the time of closure of the business.

25. The statement recorded during the inspection also indicates that the premises had been vacated by the tenant before the date of inspection. Therefore, the mere fact that the premises were found closed, bore a notice stating “Vacant for Rent”, and contained no stock on the date of inspection cannot, by itself, conclusively establish that no genuine business activities had been carried on during the preceding period.

26. At the same time, the mere assertion that the business had been conducted in the past and that the stock had been disposed of before closure is not sufficient to establish the genuineness of the transactions disclosed in the returns.

27. The circumstances recorded by the Proper Officer, including the absence of stock at the declared premises, the non-declaration of any other godown, the alleged absence of adequate infrastructure and the doubts raised regarding the genuineness of the inward and outward supplies, required a proper examination with reference to contemporaneous documentary evidence.

28. The respondent has claimed that machinery, including a horizontal press machine and a cutting machine, along with tools and other equipment, had been installed at the premises. However, the mere production or availability of purchase invoices for such equipment would not, by itself, establish that the respondent had actually carried on the trading activities in question. The installation, use and operational functioning of the equipment, to the extent relevant to the nature and scale of the business, also require verification.

29. For determining whether genuine business activities were carried on, the relevant records and documents pertaining to the conduct of business ought to be examined. These may include, wherever applicable and available:

(i) Purchase invoices, sales invoices, purchase and sales registers, stock registers and other books of account;

(ii) Documents evidencing receipt and delivery of goods, including transport receipts, bilty, delivery challans and other records relating to the movement of goods;

(iii) Weighment slips and weighbridge records, particularly in view of the nature of the business involving iron scrap and plastic scrap;

(iv) Evidence of payment of freight and other transportation charges, together with the corresponding transport documents;

(v) Records relating to the installation and use of machinery and equipment, as well as relevant expenditure on electricity, generator facilities, loading and unloading, labour, employees and other operational expenses, wherever applicable;

(vi) Bank statements, payment records and other financial documents relevant to the purchase and sale transactions; and

(vii) The relevant e-way bills and associated documents, with particular reference to the alleged discrepancies pointed out by the Department.

30. The aforesaid documents are required to be examined collectively and in the context of the nature of the transactions and the scale of the business claimed to have been conducted. The absence of any one particular document should not automatically be treated as conclusive proof of fictitious transactions; rather, the evidentiary value of the available material must be assessed in its entirety.

31. It is also observed from the order of the Proper Officer that certain suppliers relating to the inward supplies were shown as having cancelled registrations. The registration status of these suppliers requires further examination. In particular, it needs to be verified when their registrations were cancelled, whether they were registered and operational during the relevant transaction periods, and whether the corresponding supplies were actually made. The mere fact that a supplier's registration was cancelled subsequently would not, by itself, conclusively establish that the supplies made during an earlier period were fictitious. The relevant dates, the circumstances of cancellation and the supporting evidence concerning the actual transactions must be considered.

32. Similarly, the allegation regarding discrepancies in e-way bills requires examination with reference to the particulars furnished therein, the corresponding invoices, transportation records and any other relevant evidence. A finding that the transactions were fictitious must be founded upon an appropriate examination of the material evidence and not merely upon general suspicion.

33. On examination of the impugned order, we find that the First Appellate Authority has not undertaken a detailed verification of the aforesaid records and documents. The relevant books of account and supporting evidence do not appear to have been examined in a manner sufficient to resolve the principal controversy involved in the case.

34. The First Appellate Authority was required to examine whether the respondent had discharged the burden of substantiating the genuineness of the transactions in question, having regard to the allegations made by the Department and the material available on record. However, the impugned order does not reflect an adequate examination of the relevant factual issues. Consequently, the conclusion recorded by the First Appellate

Authority that the penalty imposed upon the respondent was liable to be set aside cannot be sustained without a proper verification of the relevant facts and supporting documents.

35. At the same time, it is pertinent to note that the Proper Officer appears to have passed the original order ex parte. According to the respondent, the business had already been discontinued and the notices could not be received after the closure of the premises. In the circumstances of the present case, the respondent must be afforded a reasonable and effective opportunity to present its explanation and produce the relevant evidence before an adverse conclusion is reached.

36. An ex parte order is not liable to be set aside merely because it was passed in the absence of the taxpayer. However, where the relevant factual issues require further verification and an effective opportunity of hearing is necessary for their proper adjudication, the interests of justice warrant reconsideration of the matter after affording such opportunity.

37. In view of the foregoing discussion, we are of the considered opinion that the impugned appellate order has been passed without adequate verification of the material factual issues, while the original proceedings also require reconsideration after providing the respondent with a proper opportunity of hearing.

38. Accordingly, the orders passed by the authorities below are liable to be set aside and the matter remanded to the Proper Officer for fresh adjudication in accordance with law.

Order

39. In view of the facts and circumstances discussed above, the departmental appeal is partly allowed, and the matter is remanded to the Proper Officer for fresh adjudication, subject to the following directions:

i. The order passed by the Proper Officer and the impugned appellate order dated 13.04.2024 passed by the Additional Commissioner, Grade-II (Appeal)-III, Agra, in Appeal No. 2425AAGR000746/2024 are hereby set aside.

ii. The Proper Officer shall afford the respondent taxpayer a reasonable and effective opportunity of personal hearing and permit the respondent to produce the relevant books of account, invoices, transport documents, weighment records, e-way bills, bank records and other supporting evidence concerning the transactions in question and after considering the explanation and evidence furnished by the respondent and complying with the applicable statutory requirements, shall pass a fresh, reasoned and speaking order in accordance with law.

40. The departmental appeal stands disposed of in the above terms. No order as to cost

41. There is no pending interim application in the appeal.

42. Order pronounced in open court on this day ,30th of October, 2026.

43. Copy of order be communicated to all concerned, as per rules.

(Ajeet Singh)

(Vivek Kumar)

Dated: 30.10.2026