Dated: 03.11.2026

GSTAT

State Bench Lucknow

Court No. Court II

APL/328/LCK/2026

BPJ CONSTRUCTION LLP **.....Appellant**

Versus

HIMANSHU VERMA, JC (IT), JC (IT), IT SECTION, STATE TAX HEADQUARTERS, UTTAR PRADESH, LUCKNOW & ORS. **.....Respondent**

Quorum

Hon'ble Narendra Kumar, Member(Judicial)
Hon'ble Alok Chopra, Member (Technical)

Counsel for Appellant
SHRI RAJESH KUMAR TIWARI, ADVOCATE

Counsel for Respondent
SHRI RAJESH KUMAR SINGH, DEPUTY COMMISSIONER, SGST

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. : ZA090371126000034H **Date of order :** 03/11/2026

1.	GSTIN/Temporary ID/UIN - 09ABBFB4769R1ZN	
2.	Appeal Case Reference no. - APL/328/LCK/2026	Date - 10/10/2026
3.	Name of the appellant - BPJ CONSTRUCTION LLP , TAXPOINT200@GMAIL.COM , 9415429180	
4.	Name of the respondant - 1. HIMANSHU VERMA, JC (IT) , himanshu.2381979@gov.in , 7235001296 2. COMMISSIONER	
5.	Order appealed against - AD090526072117X	
	(5.1) Order Type - Registration Order	
	(5.2) Ref Number - ZD090926376530X	Date - 25/09/2026

6.	Personal Hearing - 03/11/2026 27/10/2026
7.	Status of Order under Appeal - Reject - Order under Appeal is annulled
8.	Order in brief - The appeal is allowed, and both the Order in Appeal and the Order in Original cancelling the appellant’s registration are hereby set aside. Consequently, the cancellation of the appellant’s registration is revoked and the registration stands restored.
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
Revocation of registration	AS PER ANNEXURE 3 ANNEXED WITH THIS APPEAL	The appeal is allowed, and both the Order in Appeal and the Order in Original cancelling the appellant’s registration are hereby set aside. Consequently, the cancellation of the appellant’s registration is revoked and the registration stands restored.

Place :LUCKNOW

Signature

Date : 03.11.2026

LUCKNOW Deepak Yadav

Designation : Stenographer/Law researcher

Jurisdiction :Lucknow

ORDER

Brief Facts of the Case

1. The present appeal has been filed by M/s BPJ Construction LLP ("hereinafter referred as the Appellant") bearing GSTIN 09ABBFB4769R1ZN registered at 1/1 H, VISHESH KHAND, Gomti Nagar, Lucknow, Uttar Pradesh, 226010, against the order in Appeal No. ZD090926376530X dated 25.09.2026, passed by the Additional Commissioner, Grade-II (Appeal), State Tax, Lucknow, Uttar Pradesh, relating to cancellation of their GST registration under Rule 21(e) of the UPGST Act & Rules, 2017, on the allegation of wrongful availment of Input Tax Credit (ITC) in contravention of Section 16 of the UPGST Act, 2017, on the basis of invoices issued by certain supplier firms whose registrations had been cancelled. The appellant contends that it submitted a detailed reply in the proceedings initiated under Section 74A of the Act, but no final decision had been taken therein.

1.2 The appellant was represented by Shri Rajesh Kumar Tiwari, Advocate and respondent was represented by Shri Rajesh Kumar Singh, Deputy Commissioner, SGST ("hereinafter referred as the Ld. Respondent").

2.Issues for determination

2.1. Whether the cancellation of the appellant's GST registration is legally sustainable when the show cause notice allegedly fails to specify the name of supplier firms and particulars of the inadmissible ITC forming the basis of the proposed cancellation?

2.2. Whether the cancellation of registration can be sustained when no final adjudication order had allegedly been passed in the proceedings initiated under Section 74A of the UPGST Act, 2017, and whether the impugned appellate order confirming the cancellation and rejection of revocation is sustainable in law?

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3. Grounds of Appeal & Appellant's Contentions

3.1 The appellant submitted that the present appeal has been preferred against the order dated 01.04.2026 passed by the proper registering authority under Section 29 of the UPGST Act, 2017, read with Rule 22(3) of the Rules, the order dated 15.05.2026 rejecting the application for revocation of cancellation of registration, and the appellate order dated 25.09.2026 passed in Appeal No. GST/354/26, confirming the aforesaid orders.

3.2 That the proceedings for cancellation of registration were initiated on the basis of proceedings under Section 74A of the CGST/UPGST Act, 2017, concerning alleged wrongful availment of Input Tax Credit (ITC) on purchases made from certain suppliers, who were allegedly involved in suspicious transactions or had suffered cancellation of registration. The appellant contended that the allegations under Section 74A had not been finally adjudicated when its registration was cancelled and, therefore, the cancellation was premature, and the purchases in question were genuine and supported by valid tax invoices and e-way bills, and that payments had been made through banking channels. It further contended that the prescribed returns had been filed and the tax liability discharged through available ITC or the electronic cash ledger, as applicable. According to the appellant, these documents and circumstances were not properly considered before cancellation of its registration.

3.3 The appellant further submitted that the alleged contravention of Section 16 of the CGST/UPGST Act, 2017, read with Rule 21(e) of the Rules, had not been conclusively established by the adjudicating authority. It contended that allegations concerning its suppliers or their suppliers could not, by themselves, establish wrongful availment of ITC by the appellant without proper examination of its own transactions and supporting evidence.

3.4 That Form GST DRC-01A dated 21.02.2026 referred to certain suppliers' business activities as prima facie doubtful and that such preliminary doubts could not be treated as conclusive proof of irregularity on the part of the

appellant. It contended that its explanation and supporting documents ought to have been examined objectively before taking adverse action.

3.5 The appellant submitted that its application for revocation of cancellation of registration was rejected by order dated 15.05.2026 and that the appellate authority, by order dated 25.09.2026, upheld the cancellation and rejection orders without adequately appreciating its submissions and the pendency of the proceedings under Section 74A. It accordingly contended that the impugned orders were liable to be set aside.

3.6 The appellant submitted that cancellation of its GST registration had severely affected its ability to carry on business and had caused substantial hardship. It invoked Articles 19(1)(g) and 301 of the Constitution of India and contended that any restriction on its business activities must be supported by lawful grounds and satisfy the requirements of fairness and reasonableness.

3.7 The appellant submitted that it could not be held responsible merely for the alleged irregularities or business activities of its suppliers or their suppliers, over whom it had no control. It contended that any adverse finding against it must be based on evidence relating to its own transactions and compliance with the statutory requirements.

3.8 Therefore, the appellant prayed that the order dated 01.04.2026 cancelling its registration, the order dated 15.05.2026 rejecting its application for revocation, and the appellate order dated 25.09.2026 passed in Appeal No. GST/354/26 be set aside and that appropriate relief be granted in accordance with law.

4 Respondent's Contentions

4.1 The Ld. Respondent submitted that in the present case the appellant has availed inadmissible ITC from the seller whose registrations were cancelled from retrospective years, therefore the show cause notice was issued to the appellant under section 74 A of UPGST Act 2017 with the recommendation of the cancellation of the registration.

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4.2 The Ld. Respondent submitted that the First Appellate Authority vide its letter no. 112 dt. 03.06.2026 sought the clarification from the Proper Registering Authority, which were produced before the First Appellate Authority and after verification and considering the facts and records produced the Proper Registering Authority, the First Appellate Authority passed the order, which is legal and Proper therefore accordingly supported the impugned order and prayed for rejection of the Appeal.

5 Findings

5.1 This Bench has perused the documents filed on the portal and kept in purview the oral submissions tendered by the Ld Counsel as well as by the Ld. DR. We notice that consequent to the arguments rendered during the course of the hearings, the Show cause notice issued by the Adjudicating Authority should have contained the all details which are necessary according to law as judgement of the Hon'ble Telangana high court has held in M/s NICE ENTERPRISES V. DEPUTY COMMISSIONER ST [2024] 21 CENTEX 554 (TELANGANA] wherein it was held that a SCN merely reproducing without statutory provisions, without specifying the grounds or sufficient factual particulars violates natural justice, and that the notice must furnish adequate grounds and elementary details to enable the assessee to understand the case and file an effective reply.

5.2 The Hon'ble Supreme Court in case of G.R. INFRA PROJECT Ltd. Vs. State of Madhya Pradesh (2026) 45 Centax 331 (S.C.) dated 19.08.2026, held that the requirement necessary to sustain the validity of an alleged notice or order must be contained therein and any deficiency in the SCN, including non-application of mind or failure to meet the requisite requirements, cannot subsequently be cured or remedied.

It is important to reproduce the Show Cause notice dt. 16.03.2026 as-

"Your firm, M/s BPJ Construction (L.L.P.), has been registered in this jurisdiction with effect from 24/07/2023 at the address 1/1 H, Vishesh Khand, Gomti Nagar, Lucknow, Lucknow, Uttar Pradesh – 226010. You are violating Section 16(2) of the GST Act by claiming ITC (Input Tax Credit).

In respect of the aforesaid discrepancy, an Intimation Notice in Form GST REG-01 (E), bearing Reference No. ZD0902261547462, dated 21/02/2026, has been issued to your firm under Section 74(A) of the GST Act by the Assistant Commissioner, State Tax, Sector-19. The Deputy Commissioner, State Tax, Sector-19, has orally informed the proper officer that this firm is regularly claiming ITC in violation of Section 16(2) of the GST Act. Therefore, in the interest of revenue, directions have been issued for the suspension/cancellation of the firm registration.

From the aforesaid facts, it is evident that you are carrying on trade/business in violation of the GST Act and the Rules framed thereunder. You are hereby directed to submit your explanation within seven working days and to appear in person on 25/03/2026 at 11:00 AM to explain why your GST registration should not be cancelled on the aforesaid grounds."

5.3 It is evident from the Show Cause Notice that the appellant was alleged to have claimed the wrong ITC (Input Tax Credit) but there is no detail in the show cause notice who was the supplier and what was the GSTN number and in which period the appellant has claimed inadmissible ITC. The appellant advanced the argument that no Order in Original passed by the Adjudicating Authority under Section 74(A) of the UPGST Act 2017, wherein the order of cancellation was passed on 01.04.2026.

5.4 It is further argued that the First Appellate Authority has gone beyond the show cause notice and worked as if was collecting evidence at the First Appellate Stage, it is also argued that no proper opportunity was given to rebutt the inquiry report. The First Appellate Authority passed the order on the basis of this enquiry report which was not mentioned in the show cause notice. How can Order in Original/ Registration cancellation order be confirmed on the basis of evidence which was not produced at the time of passing of the Order in Original/ Registration cancellation order ? Hence the order of the First Appellate Authority is not sustainable in eyes of law. Additional evidence can be produced only in rare circumstance and if the

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authority wants additional evidence the proper opportunity of rebuttal must be given to the appellant. There is no paragraph in the judgement of the First appellate authority mentioning wherein any effective and reasonable opportunity of rebuttal and hearing was given to the appellant. Under Rule 112 of UPGST Acts and Rules 2017, additional evidence is admissible only in the circumstances specified therein, which, inter alia, include refusal by the adjudicating authority to admit admissible evidence, sufficient cause for non-production, or failure to provide adequate opportunity to the appellant to adduce evidence. The Appellate Authority is required to record specific reasons for admitting or rejecting such evidence. In case of rejection of additional evidence, personal hearing should be provided to the appellant to ensure adherence with the principles of natural justice. However, before admitting the said evidence, the Appellate Authority should provide reasonable opportunity to the adjudicating authority, or the officer authorised by the said authority, to examine and, where applicable, provide evidence to rebut the said additional evidence, if any. However, it is emphasized that appellate proceedings should not, as a matter of ordinary practice, be converted into a fresh investigation merely to remedy deficiencies in the original adjudication.

5.5 The order of the First Appellate Authority shows that DRC-01A was issued to the appellant and on the basis of these facts the First Appellate Authority confirmed the cancellation of registration of the appellant's firm. These details contained in the show cause notice under Section 74 (A) were not disclosed in the show cause notice of the cancellation of the registration. Section 74(A) deals with tax not paid, short paid or erroneously refunded or input tax credit wrongly availed by reason of fraud or any willful misstatement or suppression of facts. Hon'ble Supreme Court in G.R Infra Project Ltd. Vs State of Madhya Pradesh (2026) 45 Centax 331 (S.C) dated 19.08.2026, underscored that the notice itself must set out the specific allegations, material facts and circumstances forming the basis for such invocation, and that a mere mechanical reproduction of the expressions 'fraud', 'wilful-misstatement' or 'suppression of facts', without disclosing thc matcrial that led the proper

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officer to draw such inference, would not suffice. To do business is a fundamental right under Article 19(g) of the Constitution that right can be curtailed in accordance with rule and regulations procedure established by law.

5.6 It is pertinent to observe that, in the instant case, the registration of the appellant was cancelled by the department primarily on the ground of alleged wrongful availment of Input Tax Credit (ITC) on the basis of fake invoices purportedly issued by the seller, thereby alleging non-compliance with the provisions of Section 16 of the U.P. Goods and Services Tax Act, 2017. The appellant, on the other hand, has contended that he had duly paid the tax along with the consideration to the supplier in accordance with the provisions of the UPGST Act, 2017, and that he had no control over the subsequent conduct of the supplier, particularly with regard to furnishing of statutory returns and compliance with the provisions of law. It has further been submitted that no fault or deliberate involvement in any fraudulent activity can be attributed to the appellant merely on account of the supplier's failure to comply with statutory obligations. In this regard, Notification No. 05/2026–Central Tax dated 26.10.2026 assumes significance, as a subsequent legislative development has taken place whereby the ground relating to wrongful availment of ITC in violation of Section 16 has been omitted from the relevant provision governing cancellation of registration, with effect from 01.11.2026. This amendment is a relevant consideration while examining the sustainability of the impugned cancellation order, particularly when the cancellation has been founded upon the alleged wrongful availment of ITC on the basis of invoices issued by the supplier. Accordingly, the appellant's contention, in the light of the aforesaid notification and the applicable statutory provisions, deserves due consideration while determining the legality and sustainability of the impugned order of cancellation of registration.

5.7 From paragraph 2 of the Show Cause Notice, it is evident that the recommendation for cancellation of the appellant's registration was based merely on an oral intimation and notice bearing Reference No.

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ZD0902261547462, dated 21.02.2026. No other official or formal communication appears to have been made to the Proper Officer for initiating proceedings for cancellation of the appellant's registration, nor have the specific grounds justifying such cancellation been clearly disclosed in the Show Cause Notice.

5.8 This Bench is of the considered view that the proceedings initiated under Rule 21(e) of the UPGST Rules, 2017, and those initiated under Section 74(A) of the UPGST Act, 2017, are distinct and materially different in their nature, scope and legal consequences. Since the present matter is confined to the issue of cancellation of registration under Rule 21(e), no finding or observation is being made herein with regard to the proceedings under Section 74(A) of the Act. Accordingly, the impugned Order-in-Original (OIO)/ registration cancellation order and Order-in-Appeal (OIA) are required to be examined strictly within the scope of the proceedings relating to cancellation of registration. The specific grounds constituting the alleged contravention must be clearly and unequivocally stated in the show cause notice issued for cancellation of registration so as to enable the taxpayer to understand and effectively respond to the allegations levelled against him. A mere reference in the show cause notice to an oral intimation allegedly given by an officer regarding cancellation of registration cannot, by itself, constitute a valid and sufficient ground for cancellation of registration in the absence of specific allegations supported by the relevant statutory provisions. It is further observed that the show cause notice issued for cancellation of registration does not make any reference to Section 29 of the UPGST Act, 2017, whereas the First Appellate Authority has specifically invoked the said provision in the concluding paragraph of the impugned Order-in-Appeal. It is pertinent to mention that Section 29 of the UPGST Act, 2017, read with the relevant provisions of Rule 22 of the UPGST Rules, 2017, provides the statutory framework governing cancellation of registration and the procedure to be followed in that regard. However, the Proper Officer has neither referred to the aforesaid statutory provisions in the show cause notice nor duly incorporated them in the Order-in-Original/ registration cancellation order. In the absence

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of specific and clearly communicated grounds in the show cause notice, the subsequent invocation of statutory provisions by the First Appellate Authority cannot cure the fundamental defects in the proceedings, as the taxpayer must be afforded a fair and effective opportunity to meet the allegations made against him. In view of the aforesaid discrepancies, procedural shortcomings and failure to adhere to the prescribed statutory requirements, this Bench is of the considered opinion that the impugned Order-in-Original/ registration cancellation order as well as the consequential Order-in-Appeal suffer from legal infirmities and are, therefore, liable to be set aside.

ORDER

(i) The appeal is allowed, and both the Order in Appeal and the Order in Original cancelling the appellant's registration are hereby set aside. Consequently, the cancellation of the appellant's registration is revoked and the registration stands restored.

The order is pronounced in open court on 03.11.2026.

(Alok Chopra) (Narendra Kumar) 03.11.26

Date: 03.11.2026

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