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## ITC on import of goods and SEZ procurements cannot be denied for FY 2018-19 as GSTR 2A did not capture Import data during impugned period

The Hon'ble Karnataka High Court in ***Biocon Limited v. State of Karnataka [Writ Petition No. 11918 of 2024 dated April 30, 2026]*** allowed the writ petition of the Assessee and quashed the GST demand of Rs. 20.01 Crore raised on the allegation of excess availment of Input Tax Credit (“ITC”) on account of mismatch between ITC claimed in Form GSTR-3B and ITC reflected in Form GSTR-2A, holding that during FY 2018-19, Form GSTR-2A by design did not capture details relating to import of goods, import of services and SEZ procurements, thereby rendering the very basis of the demand unsustainable. The Court further held that the Bill of Entry, being the statutory document for availing ITC on imported goods under Rule 36(1)(d) of the CGST Rules, 2017, did not require any matching with GSTR-2A prior to insertion of Section 16(2)(aa) of the CGST Act, 2017 with effect from January 01, 2022.

### Facts:

- Biocon Limited (“**the Petitioner**”) is engaged in the manufacture and supply of pharmaceutical products and is duly registered under the CGST Act, 2017 and KGST Act, 2017.
- For FY 2018-19, the Petitioner imported goods and procured goods from Special Economic Zone (“**SEZ**”) units. The ITC pertaining to such import of goods (Rs. 7,73,73,105/-) and SEZ procurements (Rs. 13,68,11,797/-) was inadvertently reported in Form GSTR-3B under Table 4(A)(5) (“**All Other ITC**”) instead of Table 4(A)(1) (specifically meant for “**Import of Goods**”).
- This reporting error was subsequently rectified by the Petitioner in Form GSTR-9 (Annual Return) by correctly disclosing the said credits under Table 6E (“**Import of goods including supplies from SEZ**”), filed prior to October 31, 2020.

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- The Deputy Commissioner of Commercial Taxes, Audit-4.7 (“**the Respondent**”) initiated audit proceedings and issued pre-intimation in Form GST DRC-01A dated December 06, 2023 proposing liability of Rs. 1,15,15,27,040/- under Section 73(5) of the CGST/KGST Act.
- Thereafter, a Show Cause Notice (“**SCN**”) dated December 29, 2023 was issued under Section 73(1) of the CGST/KGST Act demanding Rs. 90,82,01,601/- along with interest and penalty.
- Pursuant to the Petitioner’s detailed reply and personal hearing, the Respondent passed Order-in-Original dated February 22, 2024 (“**Impugned Order**”) under Section 73(9) of the CGST/KGST Act confirming tax demand of Rs. 30,37,84,642/- along with interest of Rs. 29,14,02,162/- and penalty of Rs. 3,03,78,464/-. Out of the said demand, Rs. 20,00,82,381/- pertained solely to alleged excess availment of ITC on account of GSTR-3B vis-à-vis GSTR-2A mismatch.
- The Respondent rejected the Petitioner’s reconciliation on the ground that GSTR-9 is not a return for availing ITC under Section 16(4) of the CGST Act, and that the credit allegedly reported in July 2018 GSTR-3B did not match the actual figures of that month.
- Aggrieved by the Impugned Order, the Petitioner filed the present writ petition under Articles 226 and 227 of the Constitution of India before the Hon’ble High Court of Karnataka.

## **Issue:**

Whether the demand of excess ITC of Rs. 20,00,82,381/- raised solely on the ground of mismatch between ITC claimed in Form GSTR-3B and ITC reflected in Form GSTR-2A for FY 2018-19 is sustainable, when Form GSTR-2A by design did not capture details relating to import of goods, import of services and SEZ procurements during the said period?

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## Held:

The Hon'ble Karnataka High Court in ***Writ Petition No. 11918 of 2024*** held as under:

- **Observed that**, Form GSTR-2A, as originally conceived and implemented, was designed to capture only details of supplies reported by domestic suppliers and did not encompass details relating to import of goods, import of services or SEZ procurements during FY 2018-19.
- **Observed that**, for the period April 2018 to March 2019, the Petitioner had duly disclosed reverse charge tax payments and corresponding credits in Form GSTR-3B, and such transactions were absent from GSTR-2A owing to the design limitations of the GST system itself, with the relevant credits also being duly reflected in Form GSTR-9 filed prior to October 31, 2020.
- **Noted that**, the alleged discrepancy arose merely on account of an erroneous disclosure of ITC pertaining to import of goods and SEZ procurements in GSTR-3B for September 2018 under Table 4(A)(5) ("All Other ITC") instead of Table 4(A)(1) meant specifically for import of goods, which error was subsequently rectified in Form GSTR-9 through Table 6E.
- **Noted that**, as per GSTN Advisory dated August 29, 2020 and Press Release dated October 19, 2021, the details relating to imports and SEZ supplies began reflecting in Form GSTR-2A only from August 2020 pursuant to integration of the GST system with ICEGATE; ITC entitlement could not therefore be denied merely because of a typographical error in the Petitioner's reply to the SCN, where "July" was inadvertently mentioned instead of "September".
- **Noted that**, Rule 36(1)(d) of the CGST/KGST Rules, 2017 recognises the Bill of Entry as the statutory document for availing ITC on imported goods, and prior to the insertion of

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Section 16(2)(aa) of the CGST Act, 2017 with effect from January 01, 2022, there existed no statutory requirement of matching such credits with Form GSTR-2A.

- **Held that**, the reasoning and findings recorded by the Respondent in relation to Issue No. 2 pertaining to allegations of wrong availment and utilisation of excess ITC of Rs. 20,00,82,381/- on the ground of incorrect ITC claimed in GSTR-3B vis-à-vis GSTR-2A are erroneous and contrary to the material on record and the same deserve to be quashed.
- **Directed that**, the Impugned Order, to the extent it confirms demand of excess ITC of Rs. 20,00,82,381/- along with penalty of Rs. 20,08,238/- and the interest levied thereon, is set aside.
- **Further held that**, in respect of the remaining issues, namely, non-payment of GST on corporate guarantee, liability to pay tax on cross-charges received towards facilities and other expenses, ITC on promotion expenses held to be ineligible under Sections 16 and 17 of the CGST/KGST Act, denial of reduced rate of tax at 0.1% for merchant exports, wrong claim of refund on export computed on Invoice Value instead of Shipping Bill value, RCM liability on import of services, and ITC on Doctor consulting and patient counselling — the Impugned Order is erroneous and contrary to law and facts and has been passed without taking into account the relevant statutory provisions, Circulars, Notifications and judgments relied upon by the Petitioner.
- **Hence**, to afford the Petitioner one more opportunity of being heard, the matter was remanded back to the Respondent No. 3 – Adjudicating Authority for reconsideration afresh and in accordance with law as expeditiously as possible.

## Our Comments:

The judgment of the Hon'ble Karnataka High Court is a significant reaffirmation of the well-settled position that an honest taxpayer cannot be penalised for genuine reporting errors and

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inherent design limitations of the GSTN system itself, particularly during the formative years of GST. The ruling brings much-needed relief to taxpayers engaged in import of goods, import of services and SEZ procurements for FY 2017-18 and FY 2018-19, who have been served with show cause notices alleging excess ITC merely on the ground of GSTR-2A vis-à-vis GSTR-3B mismatch.

## **Statutory framework — Section 16 of the CGST Act and Rule 36 of the CGST Rules**

**Section 16(2) of the CGST Act, 2017, as originally enacted, prescribed the following conditions for availment of ITC:** (a) possession of a tax invoice, debit note or such other tax-paying document; (b) actual receipt of goods or services; (c) actual payment of tax to the Government; and (d) furnishing of the return under Section 39. The requirement that the details of the invoice or debit note must have been furnished by the supplier in the statement of outward supplies and communicated to the recipient was inserted as clause (aa) in Section 16(2) only by the Finance Act, 2021 with effect from January 01, 2022. Hence, for FY 2018-19, no statutory matching with GSTR-2A was required.

Further, Rule 36(1)(d) of the CGST Rules, 2017 identifies the Bill of Entry (or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for assessment of integrated tax on imports) as the valid document for availment of ITC on imported goods. Hence, ITC entitlement on import of goods has always been independent of, and unaffected by, any reflection (or absence) in Form GSTR-2A.

## **Pari materia judgments**

- The Hon'ble Supreme Court in ***Union of India v. Bharti Airtel Ltd. [(2022) 4 SCC 328]*** categorically held that Form GSTR-2A is “only a facilitator for taking an informed decision while doing self-assessment”, and that non-performance or non-operability of Form GSTR-2A would be of no avail because the registered person is statutorily obliged to submit returns on the basis of self-assessment in Form GSTR-3B. The judgment

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establishes that primary source documents (invoices, agreements, books of account) and not GSTR-2A, govern entitlement to ITC.

- The Hon'ble Calcutta High Court in ***Suncraft Energy Pvt. Ltd. v. Assistant Commissioner, State Tax, Ballygunge Charge [MAT 1218 of 2023 dated August 02, 2023]*** held that ITC cannot be denied to a bona fide purchaser solely on the ground of mismatch between Form GSTR-3B and Form GSTR-2A arising from default of the supplier, without first conducting inquiry against the defaulting supplier. The said judgment was upheld by the Hon'ble Supreme Court in ***Assistant Commissioner of State Tax v. Suncraft Energy Pvt. Ltd. [SLP (Civil) Diary No. 40417 of 2023 dated December 14, 2023]***.
- The Hon'ble Karnataka High Court in ***R.S. Marketing and Logistics (P) Ltd. v. Commercial Tax Officer [WRIT PETITION NO. 7295 OF 2024 (T-RES)]*** set aside an adjudication order disallowing ITC on the ground of GSTR-3B vis-à-vis GSTR-2A mismatch, holding that the adjudicating authority cannot mechanically reject ITC without following the procedure prescribed under *Circular No. 183/15/2022-GST dated December 27, 2022*.
- The Hon'ble Karnataka High Court in ***Abhimaani Structures and Engineering Pvt. Ltd. v. Superintendent of Central Tax [W.P. No. 35021 of 2025 (T-RES) order dated November 28, 2025]*** also set aside orders directing ITC reversal under Section 73(9) of the CGST Act for FY 2017-18 GSTR-3B vis-à-vis GSTR-2A discrepancies, on the ground that the Respondent failed to apply Circular No. 183/15/2022-GST.

## Relevant CBIC Circulars

The CBIC, vide ***Circular No. 183/15/2022-GST dated December 27, 2022***, issued a detailed clarification on the manner of dealing with the difference in ITC availed in Form GSTR-3B as compared to that detailed in Form GSTR-2A for FY 2017-18 and FY 2018-19. The Circular

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acknowledges that during these years, several bona fide errors and reporting limitations existed. It prescribes that where the difference exceeds Rs. 5 lakh in respect of a supplier, the taxpayer must produce a certificate from a Chartered Accountant or Cost Accountant certifying that the supplies were actually made and the tax has been paid; where the difference is up to Rs. 5 lakh, a declaration from the supplier suffices. The said Circular is binding on the field formations and applies to all proceedings (audit, scrutiny, investigation, adjudication, appeal) which are pending.

Subsequently, the CBIC issued **Circular No. 193/05/2023-GST dated July 17, 2023**, extending the benefit of **Circular No. 183/15/2022-GST** for the period from April 01, 2019 to December 31, 2021.

## Key takeaways

- For FY 2017-18 and FY 2018-19, ITC cannot be denied merely on the basis of GSTR-3B vis-à-vis GSTR-2A mismatch, especially when the mismatch arises out of import transactions, SEZ procurements, or reverse charge transactions that were not captured in GSTR-2A by design of the GST system itself.
- ITC on import of goods is governed by Rule 36(1)(d) of the CGST Rules, with the Bill of Entry being the prescribed document. There is no requirement of matching with GSTR-2A prior to introduction of Section 16(2)(aa) of the CGST Act with effect from January 01, 2022.
- Bona fide reporting errors, such as classification of credits under the wrong table of Form GSTR-3B which are subsequently rectified in Form GSTR-9, cannot form the basis for denial of substantive ITC entitlement.
- Adjudicating authorities are bound to consider CBIC Circulars (particularly **Circular No. 183/15/2022-GST**), GSTN advisories, Press Releases, and binding judicial precedents

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before confirming demands on this ground. Mechanical adjudication ignoring these instruments is liable to be quashed.

- Taxpayers who have received SCNs or adverse orders on similar grounds may rely upon this judgment along with the Hon'ble Supreme Court ruling in Bharti Airtel and Suncraft Energy, the binding CBIC Circulars, and GSTN advisories, to defend their position before the Adjudicating Authority and Appellate forums.

The present judgment reinforces the principle that taxpayers cannot be made to suffer for the limitations of the GST system itself, and that procedural reporting errors, when rectified in good time, do not extinguish substantive ITC entitlement under Section 16 of the CGST Act, 2017.

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