GSTAT

State Bench Delhi

Court No. II

APL/59/DEL/2026

Date of Pronouncement: 09.10.2026

RAM MANOHAR MEENA **.....Appellant**

Versus

SRH TECHNOLOGIES, PROPREITOR, G-124 RAJ NAGAR PART-2 NEW DELHI DLSWD 110075 **.....Respondent**

Quorum

Sh. Arun Kumar Singal, Member (Judicial)

Sh. Sanjeev Kumar Jain, Member (Technical)

Argued by

Sh. Pradip Kumar, DC, Delhi South Commissionerate, Authorized Representative for the appellant.

Sh. Mukesh Kumar Sharma, Proprietor, SRH TECHNOLOGIES in person for the respondent.

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. : ZN510071026000097H **Date of order :** 09/10/2026

1.	GSTIN/Temporary ID/UIN - 07ABHPS1522M1ZG	
2.	Appeal Case Reference no. - APL/59/DEL/2026	Date - 21/02/2026
3.	Name of the appellant - Ram Manohar Meena , rammm.g080001@gov.in , 9560302124	
4.	Name of the respondent - 1. SRH TECHNOLOGIES , ms19682@gmail.com , 7982457188	
5.	Order appealed against - AD070324083466X	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD070925065006A	Date - 29/09/2025
6.	Personal Hearing - 09/10/2026 15/09/2026 25/08/2026 03/08/2026 13/07/2026	
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	
8.	Order in brief - Input tax credit of ₹37,184/- for 2018-19 was denied to the Respondent on the sole ground that the registration of its supplier was later cancelled with effect from the date of registration. On the dates of the invoices the supplier was registered, the invoices were reported in its returns and appeared in the GSTR-2A, and payment was made through bank. At the hearing the Department admitted that the supplier has deposited the tax. Retrospective cancellation of the supplier's registration does not, by itself, make the credit inadmissible. The order-in-appeal setting aside the demand is upheld. No tax, interest or penalty is payable; amounts deposited to be refunded in accordance with law.	
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	Appellate Authority allowed the appeal filed by the Taxpayer and set aside the demand raised in the order dated 2012.2023	

Place :DELHI

Date : 12.10.2026

Shr. Arun Kumar Singal, JM

Shr. Sanjeev Kumar Jain, TM

Jurisdiction : Delhi

ORDER

1.0 This appeal has been filed by the Assistant Commissioner, Dwarka Division, CGST Delhi South Commissionerate (hereinafter "the Department"), under sub-section (3) of Section 112 of the Central Goods and Services Tax Act, 2017 (hereinafter "the Act"), against Order-in-Appeal No. 1018/JC/Central Tax/Appeal-II/Delhi/2025-26 dated 29.09.2025 passed by the Joint Commissioner, CGST Appeals-II, Delhi (hereinafter "the first appellate authority"). By that order the first appellate authority allowed the appeal of M/s SRH Technologies (hereinafter "the Respondent") and set aside a demand of input tax credit of ₹37,184/-, with interest and a penalty of ₹10,000/-, for the financial year 2018-19.

2.0 The Respondent is a proprietary concern of Sh. Mukesh Kumar Sharma at G-124, Rajnagar-Part 2, Palam Colony, South West Delhi, Delhi-110075, registered under the Act with GSTIN 07ABHPS1522M1ZG. It trades in computer systems and peripherals.

2.1 In September and October 2018 the Respondent bought laptop computers from M/s Maa Gayatri Infotech (Legal Name: Ravina Devi), GSTIN 07BJXPD1010J1ZC, of Dwarka, New Delhi (hereinafter "the supplier"), under five tax invoices:

Invoice No.	**Date**	**Invoice value (₹)**
MGI/0018/2018-19	22.09.2018	54,500
MGI/0024/2018-19	28.09.2018	27,250
MGI/0025/2018-19	29.09.2018	54,000
MGI/0027/2018-19	03.10.2018	54,000
MGI/0028/2018-19	04.10.2018	54,000
Total		2,43,750

Each invoice charges central tax and State tax at 9 per cent each. The Respondent took credit of the tax so charged, which the notice and the orders below put at ₹37,184/-.

3.0 The Respondent's returns for 2018-19 were taken up for scrutiny under Section 61 of the Act. A notice in FORM GST ASMT-10 was issued on 28.03.2023 and an intimation was given in FORM GST DRC-01A on 26.10.2023. Show Cause Notice No. 51/2023-24 dated 09.11.2023 was then issued under Section 73. It stated that, on reconciliation of the data in the Department's system, the Respondent was found to have received credit from a supplier whose registration had been "cancelled Suo-moto from date of registration (Retrospectively)", the credit of ₹37,184/- was therefore not permissible under

Section 16 of the Act, and that it was recoverable under Section 73(1) with interest and penalty. That is the whole of the allegation. The notice does not say that the goods were not received, that the invoices were not genuine, or that the supplier had not paid the tax.

3.1 The notice was adjudicated by the Superintendent, Range-82, Dwarka Division, by Order-in-Original No. 01/GST/DWK/2023-24 dated 20.12.2023, bearing reference No. ZD071223127772J on the common portal (hereinafter "the adjudication order"). The Respondent's authorised representative appeared on 11.12.2023 and submitted that the supplier had filed its returns in FORM GSTR-1 and FORM GSTR-3B for the period, that the credit was reflected in the Respondent's FORM GSTR-2A, and that documents showing the transactions to be genuine had been filed. The adjudicating authority held that the supplier's registration stood cancelled with effect from the date of registration; that paragraph 7 of Annexure B to Instruction No. 02/2022-GST dated 22.03.2022 of the Central Board of Indirect Taxes and Customs restricts credit in such a case; and that Section 16(2)(a) allows credit only on an invoice "issued by a supplier registered under this Act". The demand of ₹37,184/- was confirmed under Section 73(1) with interest, and a penalty of ₹10,000/- was imposed under Section 73(9) read with Section 122(2)(a).

4.0 The Respondent appealed on 19.03.2024. It filed the five invoices, screenshots of its FORM GSTR-2A showing each of them, its ledger account of the supplier, its bank statement, and the result of a search of the supplier's GSTIN on the common portal showing the returns filed by the supplier. Hearing was fixed on 09.06.2025 and 12.09.2025. The proprietor appeared on both dates. No one appeared for the Department.

4.1 By the order under appeal the first appellate authority held that the supplier had filed its FORM GSTR-1 and FORM GSTR-3B for 2018-19, so that its

registration was active during the period and the tax collected by it had been paid; that each of the conditions in Section 16(2) was met, the Respondent having the invoices, the invoices appearing in FORM GSTR-2A, the ledger showing receipt, and the bank statement showing payment; that under Section 76 of the Act it is the supplier who must be proceeded against where tax has been collected and not paid, and a demand on the recipient was "in violation of" that Section and credit cannot be denied to a genuine buyer because the supplier's registration is cancelled retrospectively, the Department having taken no action against the supplier. The appeal was allowed and the adjudication order set aside.

5.0 The Principal Commissioner, CGST Delhi South, by Review Order No. 522/Pr. Commr./GST-Delhi South/2025-26 dated 20.01.2026 made under Section 112(3), directed the filing of this appeal.

6.0 The amounts involved, tax of ₹37,184/- and penalty of ₹10,000/-, are each below the sum of fifty thousand rupees mentioned in sub-section (2) of Section 112. The Department has, however, pressed the appeal as one of principle, and the question is one that arises often in the scrutiny of returns. We have therefore heard it on merits.

7.0 Heard both sides.

8.0 In a nutshell the case of the Department, as set out in the Review Order and the grounds of appeal, is as follows. The retrospective cancellation of the supplier's registration shows that the transactions were not genuine, and the first appellate authority did not deal with that allegation. Section 16(2)(c) requires that the tax charged has actually been paid to the Government; the first appellate authority treated the Respondent's payment to the supplier through bank, the invoices and the entries in FORM GSTR-2A as proof of that, without verifying the supplier's returns or tax deposit records. A supplier whose registration is

cancelled retrospectively was not entitled to make taxable supplies or collect tax in the period; its invoices lose legal sanctity and are not valid documents under Rule 36(1)(a) of the Central Goods and Services Tax Rules, 2017, which requires an invoice of a registered person. The instructions of the Board treat credit on invoices of such suppliers as inadmissible. Section 76 deals with tax collected and not paid and prescribes a procedure against the person who collected it; it is no bar to proceedings against a recipient who has wrongly availed credit. Reliance is placed on State of Karnataka v. Ecom Gill Coffee Trading Private Limited (Civil Appeal No. 230 of 2023, decided on 13.03.2023), for the proposition that the burden is on the person claiming credit to prove the actual transaction and the physical movement of goods, and on Aastha Enterprises v. State of Bihar (Civil Writ Jurisdiction Case No. 10395 of 2023) of the Hon'ble Patna High Court.

9.0 The Respondent submits that his supplier has paid the tax on the goods supplied to him and that he has availed the input tax credit in accordance with the rules. His case, as it was before the authorities below, is that the supplier was a registered person when the goods were bought; that the supplier filed its returns up to March 2019 and reported these invoices, which is why they appear in the Respondent's FORM GSTR-2A; that the price including tax was paid through bank; that it produced the purchase bills, the ledger and the bank statement during scrutiny and again in appeal; that a purchaser cannot be made to suffer for a cancellation ordered later with effect from 01.07.2017; and that to deny the credit would be to tax the same supply twice.

9.1 In the course of the hearing the learned Deputy Commissioner appearing for the Department fairly admitted that the supplier of the Respondent has deposited the tax in the credit ledger. He added that he was not sure whether the input tax credit availed by the Respondent is against that entry in the ledger of the supplier.

10.0 The question for decision is whether input tax credit availed on invoices issued by a supplier who was registered on the dates of the invoices becomes inadmissible for the sole reason that the supplier's registration is afterwards cancelled with effect from a date before those invoices.

11.0 Section 16(2) of the Act, so far as it is material and as it stood in 2018-19, provides that no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,

"(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

(b) he has received the goods or services or both.

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 39".

The adjudication order rests on clause (a) alone. The Department's appeal adds clause (c). We take them in turn.

12.0 Under clause (a) of Section 16(2) of the Act, the requirement is of an invoice "issued by a supplier registered under this Act". An invoice is issued on a day, and the natural meaning of the words is that the supplier must be registered on that day. On 22.09.2018, 28.09.2018, 29.09.2018, 03.10.2018 and 04.10.2018 the supplier held a registration granted by the Department, with effect from 01.07.2017. The invoices carry its GSTIN. A person who buys goods can know of his supplier's status only what the common portal shows, and on those dates the portal showed a registered taxable person.

12.1 Sub-section (2) of Section 29 of the Act empowers the proper officer to cancel a registration from such date, including any retrospective date, as he may deem fit. We do not doubt the power. But what it does is to fix, as between the Department and the registrant, the date from which the registration is treated as at an end. It does not say that every invoice issued by the registrant in the meantime is to be treated as never issued, or that the credit taken on such invoices by third parties is to lapse. Sub-section (3) of the same Section provides that cancellation shall not affect the liability of the person to pay tax and other dues for any period prior to the date of cancellation. The statute thus keeps the supplier answerable for the tax on its supplies. It contains no corresponding provision withdrawing the credit of those who bought from it.

12.2 The cancellation order in this case has not been produced. Its date and its ground are not known. What the record does show is that the supplier went on filing returns on the common portal for long after the transactions in question; its return in FORM GSTR-1 for the quarter ending June 2019 was filed on 22.12.2019. A person whose registration has been cancelled cannot file returns. The cancellation was therefore ordered at some time after 22.12.2019, more than a year after the last of these invoices. The Respondent was not a party to that proceeding and had no notice of it. If the Department's contention is right, a buyer who has done everything the law asks of him on the day of purchase holds his credit at the mercy of whatever the Department may, years later and behind his back, decide about his supplier, and from whatever date it may choose. We are unable to read Section 16(2)(a) as producing that result. The first appellate authority said at paragraph 6.5 of its order that the transactions took place before the effective date of cancellation. That is a slip, for the effective date is 01.07.2017; but the transactions did take place long before the cancellation was ordered, and that is the fact that matters.

12.3 The adjudicating authority relied on paragraph 7 of Annexure B to Instruction No. 02/2022-GST dated 22.03.2022, which reads:

"In case of retrospective cancellation of registration of a supplier, the recipient is not entitled to claim ITC in respect of invoices or debit notes issued after the effective date of cancellation of the registration."

The Instruction lays down a standard operating procedure for officers scrutinising returns, and Annexure B is a list of the parameters they are to look at. It tells the officer what to examine. It cannot add to Section 16 a disqualification that the Section does not contain, and it does not bind an authority deciding an appeal. A flag raised in scrutiny is the beginning of an enquiry into whether the supply was real and the tax was paid; it is not the conclusion of one. Here the enquiry stopped at the flag.

12.4 The contention founded on Rule 36(1)(a) is the same contention in another form. The rule requires an invoice issued by the supplier in accordance with Section 31, and Section 31 speaks of a registered person. The supplier was a registered person when it issued these invoices.

12.5 A registration may be cancelled retrospectively for many reasons, among them a failure to file returns in a later period, and the ground here is not even disclosed. The Respondent has produced invoices which describe the laptops by model and by serial number; the entries of each invoice in its FORM GSTR-2A, which exist only because the supplier reported those sales in its own return; its ledger; and its bank statement showing six transfers to the supplier by IMPS and NEFT between 21.09.2018 and 05.10.2018, amounting to ₹2,43,000/-. The Department has not questioned any of these documents.

13.0 Now, let us take clause (c) of 16(2) of the ACT, the Department says that payment by the buyer to the seller is not payment by the seller to the Government,

and that the first appellate authority verified nothing. As a statement of law the first part is correct, and if the first appellate authority had rested on the bank statement alone its conclusion could not stand. It did not. It recorded that the invoices appear in FORM GSTR-2A, which means that the supplier declared them in its statement of outward supplies, and that on verification from the common portal the supplier was found to have filed its returns in FORM GSTR-3B for 2018-19. The portal extract on record bears this out: the supplier's return for September 2018 was filed on 22.10.2018 and that for October 2018 on 23.11.2018. A return in FORM GSTR-3B cannot be filed without discharging the liability declared in it.

13.1 More important is what the Department has not said. Neither the show cause notice nor the adjudication order alleges that the supplier failed to pay the tax on these five invoices. The grounds of appeal do not say so either; they say only that payment "has not been verified" and that there can be "no presumption" of it. The supplier is an assessee of the same Commissionerate. Its returns and its ledgers are in the Department's own system, to which the Respondent has no access. If the tax was not paid, the Department could have shown it in a line. It did not appear on either date of hearing before the first appellate authority, and it has produced nothing here. Sub-section (7) of Section 75 forbids a demand being confirmed on grounds other than those specified in the notice. A demand raised on the ground that the supplier's registration was cancelled cannot be defended in appeal on the different ground that the supplier may not have paid its tax, least of all when that ground is put forward as a doubt and not as a fact.

13.2 The matter is now put beyond doubt by what was said at the hearing. The learned Deputy Commissioner admits that the supplier has deposited the tax. His only reservation is that he is not sure whether the credit availed by the Respondent corresponds to that deposit. That is not a deficiency in the Respondent's claim. It is an uncertainty in the Department's own mind about its own records, and a

demand cannot be founded on it. From the stand taken by the Department one thing is clear: the Respondent has availed the credit as the law allows, and no deficiency or illegality in it has been pointed out, the supplier having already paid the tax on the goods supplied to the Respondent. Clause (c) of Section 16(2) is satisfied. The Respondent cannot be denied a credit to which he was legally entitled.

13.3 The decisions cited by the Department are of no help to the case of appellant. **State of Karnataka Ecom Gill Coffee Trading**, (supra) relied upon by the reviewing authority holds that the burden of proving a claim to input tax credit lies on the purchasing dealer, and that where the genuineness of the purchase is in question the dealer must prove the actual transaction and movement of goods, the production of invoices and proof of payment not being enough by themselves. Section 155 of the Act places the same burden on the claimant, and we proceed on that footing. But in that case the genuineness of the purchases had been put in issue by the assessing authority. In the present case it never was. The Respondent was not asked at any stage to prove delivery of the goods, and was not told that the receipt of goods was doubted; it was told only that its supplier's registration had been cancelled. A person cannot be faulted for failing to prove what he was never called upon to prove. Similarly, **Aastha Enterprises**, (supra), relied upon by the reviewing authority is concerned with a supplier who had not paid the tax to the Government which is not the case in hand. Thus both the authorities relied upon by the reviewing authority are not applicable to the present appeal and are distinguishable on facts.

14.0 The first appellate authority also tested the claim against clauses (aa) and (ba) of Section 16(2). Those clauses were inserted later and did not govern credit taken in 2018-19. Nothing turns on it, since it found them satisfied.

15.0 We hold that the retrospective cancellation of a supplier's registration does not, by itself, render inadmissible the input tax credit availed by a recipient on invoices issued while the supplier was registered. It may be a reason for the Department to enquire. If on enquiry it has material that the goods or services were not received, or that the tax charged was not paid to the Government, or that the recipient was party to a fraud, it may issue a notice saying so and the recipient will have to meet it. No such case was made against the Respondent.

16.0 The first appellate authority was right to set aside the demand of ₹37,184/-. Since the Respondent availed a credit to which he was entitled, there was no justification for the penalty, and the Respondent is not liable to pay the penalty of ₹10,000/- imposed by the adjudication order. For the same reason no interest can be charged from the Respondent on the amount of the credit. We find no merit in the appeal.

16.1 At this stage the Respondent submits that he has deposited some amount in the office of the Commissioner at the time of appeal. The demand not having survived, whatever the Respondent has deposited against it is to be returned to him in accordance with law.

17.0 As observed in the preceding paras the appeal is devoid of merit. The reviewing authority before filing this appeal must have considered the merits of the case while recommending the filing of the present appeal against the order of appellate authority as the amount involved in this case is less than Rs. 50,000. Even this Tribunal is well within its authority under Section112(2) of the CGST Act, 2017 not to entertain this appeal since the amount in dispute is below Rs. 50,000 and unnecessary harassment has been caused to the tax payer by dragging him in avoidable litigation.

18.0 Accordingly, we pass the following order:

ORDER

(a) The appeal of the Department is dismissed.

(b) Order-in-Appeal No. 1018/JC/Central Tax/Appeal-II/Delhi/2025-26 dated 29.09.2025, setting aside Order-in-Original No. 01/GST/DWK/2023-24 dated 20.12.2023 (reference No. ZD071223127772J), is confirmed.

(c) The Respondent is not liable to pay the tax of ₹37,184/-, the interest or the penalty of ₹10,000/- demanded by the order-in-original. Any amount deposited by the Respondent against that demand, including any pre-deposit made for the appeal before the first appellate authority, shall be refunded to him in accordance with law.

(d) This Tribunal is not imposing any cost on the Department and hope that such type of appeals involving amount in dispute of less than Rs. 50,000 will be filed after careful scrutiny of the entire case.

19.0 On the above terms, the appeal is disposed of.

Digitally signed by ARUN KUMAR SINGAL
Date:12-10-2026 16:41:40 PM

(Arun Kumar Singal)

Digitally signed by Sanjeev Kumar Jain
Date:12-10-2026 16:07:07 PM

(Sanjeev Kumar Jain)

Pronounced in open Court.

Dated: 09.10.2026