

A2Z Taxcorp LLP

Toll Plaza Data/Receipt Is No Statutory Test for ITC and Recipient is not liable for any irregularity committed by second-line suppliers

The GSTAT, Kolkata Bench in *Pr. Commissioner, CGST & CX, Siliguri Commissionerate v. M/s Agarwala's Bitumex Private Limited [Appeal Nos. APL/10/KLK/2026 and APL/14/KLK/2026 dated August 20, 2026]* dismissed the appeals filed by the Revenue against the orders of the First Appellate Authority allowing refund of accumulated Input Tax Credit ("ITC") of Rs. 39.07 lakhs (approx.) to an exporter, and held that toll plaza receipts are not a mandatory requirement for availing ITC, that there is no provision in the GST law requiring goods to necessarily move from the registered place of the supplier in a Bill To-Ship To transaction, that the recipient is not liable for any irregularity committed by second-line suppliers with whom it has no connection, and that fresh grounds and evidence not forming part of the Show Cause Notice cannot be introduced for the first time before the Tribunal in view of Rule 45(1) of the GSTAT (Procedure) Rules, 2025 and Rule 112(1) of the Central Goods and Services Tax Rules, 2017.

Facts:

M/s Agarwala's Bitumex Private Limited ("**the Respondent**"), Siliguri, West Bengal, is engaged in the supply and export of bars and rods of iron or non-alloy steel and bitumen falling under HSN 7214 and 2714. The Respondent filed refund claims of accumulated ITC under Section 54 of the Central Goods and Services Tax Act, 2017 ("**the CGST Act**") of Rs. 11,41,828/- for January 2025 and Rs. 27,65,697/- for February 2025 on account of exports made out of India.

The Assistant Commissioner, CGST & CX, Siliguri Division ("**the Adjudicating Authority**") issued Show Cause Notices dated May 15, 2025 and May 26, 2025 ("**the SCNs**") raising two objections: (i) the goods purchased from the immediate supplier, M/s KS Metals Pvt. Ltd., Kolkata ("**KSM**"), were not dispatched from West Bengal, since toll plaza data showed movement of the vehicles only within Bihar and Uttar Pradesh; and (ii) KSM had procured the goods from two suppliers,

A2Z Taxcorp LLP

M/s Bhadra Enterprises and M/s Maa Kali Traders, whose registrations were cancelled *ab initio*. The Adjudicating Authority rejected both refund claims vide Orders-in-Original dated May 28, 2025 and June 05, 2025 (“the OIOs”).

On appeal, the Joint Commissioner (Appeals), CGST & CX, Siliguri (“the First Appellate Authority”) set aside the OIOs vide Orders-in-Appeal Nos. 295/SLG-GST/2025-26 and 296/SLG-GST/2025-26 dated September 12, 2025 (“the Impugned Orders”), holding that KSM’s registration was active and undisputed, the supplies were made under the Bill To–Ship To model and the cancellation of registration of the level-2 suppliers could not be visited upon the Respondent.

Aggrieved, the Revenue (“the Appellant”) filed appeals before the Tribunal under Section 112(1) of the CGST Act contending that: (i) all fourteen consignments encountered their first toll crossing in Bihar and not in West Bengal, which contradicted the declared dispatch location at Kolkata, and the Bill To–Ship To model permits a different destination but cannot validate a movement that never began from West Bengal, making it a case of false origin declaration; (ii) the *ab initio* cancellation of the upstream suppliers’ registration established that no goods were available for supply, and Section 16(2)(b) of the CGST Act requires receipt of goods through a valid taxable supply from a genuine registered supplier; (iii) mere possession of tax invoices, e-way bills and reflection in GSTR-2B does not establish actual receipt of goods; and (iv) for the first time before the Tribunal, that letters had been received from the Land Customs Station, Jogbani and Customs Preventive Headquarters, Patna, that bitumen is a regulated petroleum commodity requiring PESO/State licences which the suppliers lacked, and that the State GST authorities and the DGGI had initiated proceedings against M/s Simplex Natural Resources LLP, the Respondent’s earlier unit, for a similar *modus operandi*.

The Respondent filed cross objections contending that the supplies were made under the Bill To–Ship To model with the ship-to address as the Land Customs Station, Jogbani, on the Respondent’s own instructions; that the e-way bills were generated by KSM and the

A2Z Taxcorp LLP

Respondent was not privy to the exact place of dispatch; that the GST law nowhere prescribes verification of toll plaza data as a condition for availing ITC and the only conditions are those stipulated in Section 16(2) of the CGST Act, which stood satisfied; that it had furnished e-way bills, bilty copies, shipping bills, Export General Manifest (“EGM”) details, the transporter’s certificate and bank statements, none of which were disputed by the Revenue; that it had no nexus with the second-line suppliers; and that the additional grounds raised for the first time before the Tribunal travelled beyond the scope of the SCNs and were barred by Rule 45(1) of the GSTAT (Procedure) Rules, 2025 and Rule 112(1) of the Central Goods and Services Tax Rules, 2017 (“the CGST Rules”).

Issue:

Whether refund of accumulated ITC on exports can be denied to a recipient on the grounds that toll plaza data does not reflect movement of goods from the supplier’s State in a Bill To–Ship To transaction and that the registrations of the second-line suppliers were cancelled *ab initio*, and whether the Revenue can introduce fresh grounds and evidence before the Tribunal which did not form part of the SCNs?

Held:

The GSTAT, Kolkata Bench in ***Appeal Nos. APL/10/KLK/2026 and APL/14/KLK/2026*** held as under:

- Observed that the SCNs raised only two objections, i.e., non-dispatch of the goods from West Bengal (founded purely on toll plaza movements) and cancellation of registration of the second-line suppliers. The payment of tax was reflected in GSTR-1, GSTR-2B and GSTR-3B, the refund applications in Form GST RFD-01 had been verified, the Land Customs Station had confirmed the export, the Bank Realisation Statement had been received by the DGFT and the Revenue itself admitted that the goods were received at

A2Z Taxcorp LLP

the ship-to point and duly exported. The only dispute was, therefore, regarding the manner of transportation.

- Noted that the e-way bills confirmed the Bill To-Ship To model, under which the exporter had the goods delivered directly at the place of export by giving instructions to KSM. There is no provision in the GST law that the goods should necessarily start from the registered place of the supplier; the supplier is to supply the goods as per the instructions of the recipient/exporter to the place of export.
- Noted that the e-way bills, bilty copies, shipping bills, EGM details, transporter's certificate and bank statements furnished by the Respondent collectively substantiated the engagement of a registered Goods Transport Agency, the delivery of goods and the subsequent export, and these documents were not disputed by the Revenue; on perusal of Section 16(2) of the CGST Act, the Respondent had complied with all the conditions in clauses (a) to (d) thereof and was eligible to take ITC.
- Held, relying on **Raghuvansh Agro Farms Ltd. v. State of U.P. [Writ Tax No. 3829 of 2025 dated December 17, 2025]** of the Hon'ble Allahabad High Court, that toll plaza receipts are not a mandatory requirement for availing ITC; the Revenue has failed to bring on record any provision under the GST Act or Rules compelling an assessee to file toll plaza receipts, and the documents required for valid transportation and export are tax invoices, e-way bills and bilty copies reflected on the GST portal along with payments made through banking channels, all of which the Respondent had furnished.
- Held that the actual supplier, KSM, holds a valid registration which still subsists on the GST portal; there is no connection between the Respondent and the second-line suppliers, the Respondent is not liable for any irregularity committed by them and, having committed no irregularity in the export of goods, cannot be denied the refund of ITC.

A2Z Taxcorp LLP

- Held that the grounds relating to the Customs/DGGI letters and investigations, the licensing requirement for bitumen and the alleged *modus operandi* of the Respondent's earlier unit were raised for the first time before the Tribunal without any prayer for admission of additional evidence and without filing any document of investigation or its progress; Rule 45(1) of the GSTAT (Procedure) Rules, 2025 and Rule 112(1) of the CGST Rules clearly bar additional evidence except in exceptional circumstances, and an issue not mentioned in the SCNs despite being within the knowledge of the Revenue cannot be raised at this stage.
- Accordingly, upheld the Impugned Orders and dismissed both the appeals filed by the Revenue.

Our Comments:

Section 16(2) of the CGST Act enumerates the conditions for availing ITC, namely (a) possession of a tax invoice or debit note; (aa) furnishing of the invoice by the supplier in GSTR-1 and its communication to the recipient in GSTR-2B; (b) receipt of the goods or services; (ba) the credit not being restricted under Section 38; (c) actual payment of the tax to the Government by the supplier; and (d) furnishing of the return under Section 39. Significantly, the Explanation to clause (b) deems the registered person to have received the goods where they are delivered by the supplier to a recipient or any other person on the direction of such registered person, before or during movement of the goods, by way of transfer of documents of title or otherwise. This Explanation, read with Section 10(1)(b) of the Integrated Goods and Services Tax Act, 2017 (which fixes the place of supply in such cases as the principal place of business of the third person on whose direction the goods are delivered), is the statutory foundation of the Bill To-Ship To model, and the CBIC has clarified vide Circular No. 47/21/2018-GST dated June 08, 2018 that only one e-way bill is required in such a transaction. The Tribunal's finding that the GST law does not require the goods to commence their journey from the supplier's registered place of business is, therefore, entirely consistent with the scheme of the Act. Further, Section

A2Z Taxcorp LLP

54(3) of the CGST Act read with Rule 89(4) of the CGST Rules entitles a registered person making zero-rated supplies without payment of tax to refund of the unutilised ITC, and once the conditions of Section 16(2) stand satisfied and the export is admitted, there is little room for the refund to be withheld on considerations extraneous to the statute.

The ruling reaffirms three settled propositions. First, the toll plaza (FASTag) trail is a tool of investigation and not a statutory condition for credit; the Tribunal has followed the Hon'ble Allahabad High Court in *Raghuvansh Agro Farms Ltd.* (supra), which held that an adverse inference drawn merely from non-submission of toll plaza receipts, when e-way bills, bilty, tax invoices and banking payments to the transporter were on record without any defect being pointed out, is patently perverse. Second, a bona fide recipient cannot be saddled with the default of suppliers beyond its immediate vendor. The Hon'ble Calcutta High Court in *Suncraft Energy Pvt. Ltd. v. Assistant Commissioner, State Tax* [MAT 1218 of 2023 dated August 02, 2023] held that ITC cannot be denied to a purchaser without first proceeding against the defaulting supplier, save in exceptional cases of collusion or where the supplier is missing, and the Special Leave Petition against that decision was dismissed by the Hon'ble Supreme Court on December 14, 2023. Likewise, in *LGW Industries Ltd. v. Union of India* [WPA No. 23512 of 2019 dated December 13, 2021] and *Gargo Traders v. Joint Commissioner, Commercial Taxes (State Tax)* [WPA 1009 of 2022 dated June 12, 2023], the Hon'ble Calcutta High Court held that retrospective cancellation of a supplier's registration cannot, by itself, deprive a genuine purchaser of ITC where the transactions are supported by invoices, transport documents and payments through banking channels. The Hon'ble Delhi High Court in *Arise India Ltd. v. Commissioner of Trade & Taxes* [W.P.(C) 6093 of 2017 dated October 26, 2017] had earlier read down the pari materia provision of the Delhi VAT law so as not to apply to bona fide purchasers, and the Special Leave Petition against it was dismissed on January 10, 2018. Third, the Show Cause Notice is the foundation of the proceedings and the Department cannot travel beyond it, as held by the Hon'ble Supreme Court in *Commissioner of Customs, Mumbai v. Toyo Engineering India Ltd.* [2006 (201) ELT 513 (SC)] and *Commissioner of Central Excise,*

A2Z Taxcorp LLP

Bhubaneswar-II v. Champdany Industries Ltd. [2009 (241) ELT 481 (SC)]. This principle now finds procedural expression before the Tribunal in Rule 45 of the GSTAT (Procedure) Rules, 2025 and Rule 112 of the CGST Rules, both of which bar additional evidence at the appellate stage except in the limited circumstances specified therein, such as where the lower authority refused to admit evidence which ought to have been admitted or the party was prevented by sufficient cause from producing it.

The contrary line of authority must, however, be kept in view. The Hon'ble Supreme Court in *State of Karnataka v. Ecom Gill Coffee Trading Pvt. Ltd. [Civil Appeal No. 230 of 2023 dated March 13, 2023]*, while construing Section 70 of the Karnataka VAT Act, held that the burden of proving the genuineness of a transaction and the actual physical movement of goods lies on the dealer claiming ITC, and that mere production of invoices and proof of payment is not sufficient; the dealer must establish the name and address of the selling dealer, vehicle details, payment of freight, acknowledgement of delivery and the like. Following this, the Hon'ble Allahabad High Court in *Malik Traders v. State of U.P. [Writ Tax No. 1219 of 2021 dated October 18, 2023]* and *Shiv Trading v. State of U.P. [Writ Tax No. 1421 of 2022 dated November 28, 2023]* upheld the denial of ITC where the purchaser could not produce transport documents or otherwise demonstrate the actual movement of goods, reading Section 16(2)(b) with the burden of proof cast by Section 155 of the CGST Act. The present ruling is distinguishable precisely because the Respondent had discharged that burden by producing e-way bills, bilty copies, the transporter's certificate, shipping bills, EGM details and bank statements, none of which was controverted by the Revenue, and the export itself stood admitted.

The takeaway for exporters and traders operating on the Bill To-Ship To model is that the completeness of the documentary chain — tax invoice, e-way bill, bilty/lorry receipt, transporter's confirmation, payment trail and, in the case of exports, shipping bill, EGM and Bank Realisation Certificate — remains the decisive factor. Where that chain is complete and undisputed, neither the absence of a toll plaza trail in a particular State nor the cancellation of

A2Z Taxcorp LLP

registration of suppliers two levels up the chain can, by itself, justify denial of credit or refund. Equally, for the Department, the decision is a reminder that allegations of investigation, licensing violations or past conduct must be pleaded in the Show Cause Notice and supported by evidence at the adjudication stage; the Tribunal will not permit the case to be improved for the first time in appeal.

[CLICK HERE FOR OFFICIAL JUDGMENT COPY](#)

(Author can be reached at info@a2ztaxcorp.com)

DISCLAIMER: *The views expressed are strictly of the author and A2Z Taxcorp LLP. The contents of this article are solely for informational purpose and for the reader's personal non-commercial use. It does not constitute professional advice or recommendation of firm. Neither the author nor firm and its affiliates accepts any liabilities for any loss or damage of any kind arising out of any information in this article nor for any actions taken in reliance thereon. Further, no portion of our article or newsletter should be used for any purpose(s) unless authorized in writing and we reserve a legal right for any infringement on usage of our article or newsletter without prior permission.*