Dated: 05.11.2026

GSTAT

State Bench Agra

Division Bench Court No. Court I

APL/100/AGR/2026

PRAKASH IRON FOUNDRY **.....Appellant**

Versus

DEPUTY COMMISSIONER, DEPUTY COMMISSIONER (STATE TAX), SECTOR-4, AGRA & ORS. **.....Respondent**

Quorum

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

Counsel for Appellant
SHASHI KUMAR AGRAWAL, CA

Counsel for Respondent
MUKESH KUMAR, D.C./ SR

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. : ZN090401126000075H **Date of order :** 05/11/2026

1.	GSTIN/Temporary ID/UIN - 09AACFP7657A3Z6	
2.	Appeal Case Reference no. - APL/100/AGR/2026	Date - 28/04/2026
3.	Name of the appellant - PRAKASH IRON FOUNDRY , shwetang@prakashfoundry.com , 7895552509	
4.	Name of the respondant - 1. Shri Prakash Yadav Joint Commissioner(IT) State Tax Headquarters Lucknow , ctithqlu-up@nic.in , 7235002314 2. Deputy Commissioner	
5.	Order appealed against - AD090325158349P	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD090525080866T	Date - 09/05/2025

6.	Personal Hearing - 05/11/2026 14/10/2026 07/10/2026 23/09/2026 13/08/2026
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed
8.	Order in brief - This second appeal fails and accordingly dismissed by upholding the order in appeal and order in original, as well.
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	ITC availed on Inward Supply from allegedly Non-Existent Firm, liable to be reversed.	AGRA BENCH

Place :AGRA

Signature

Date : 05.11.2026

AGRA Sandeep Yadav

Designation : Stenographer/Law researcher

Jurisdiction :Agra

ORDER

Per. Ajeet Singh (Judicial Member)

Prakash Iron foundry, Agra

Vs

Commissioner State Tax, U.P

APL/100/AGR/2026

1. Feeling aggrieved by the order dated- 24.04.2025, passed by first appellate authority in appeal no. 1593/2025 whereby appellant's first appeal has been dismissed by upholding Order-in-Original dated-01.10.2022 imposing tax and penalty of Rs. 5,42,505/- along with applicable interest, present appeal u/s 112(1) of Central Goods and Services Tax/Uttar Pradesh Goods Services tax, has been filed. For brevity, appellant and respondent hereinafter in the order will be called as taxpayer firm and department, respectively.
2. In nutshell, facts of the case are that Assistant Commissioner (S.I.B), State tax Mathura vide letter no. 354 dated 30.09.2023 has informed the tax officers Agra, to the effect that firm "Dwarkadhish traders" Mathura having GSTIN **09HADPK7329NIZ0** was found to be non-existent. In the relevant year 2023-24, in the month of June taxpayer firm which engaged in manufacturing of SG Iron, Cast Iron and Machine components, had received inward supply of goods covered by three invoices of worth Rs. 15,06,960.50/- and correspondingly availed Input tax credit of Rs. 2,71,252.90/-. Learned proper officer having jurisdiction over the taxpayer firm formed an opinion that supplier firm had only issued tax invoices to taxpayer firm herein without actual delivery of goods and merely passing on ITC to another firm under collusion. Learned proper officer had issued SCN in DRC-01 to taxpayer firm which was not responded, thus learned proper officer had passed the order against taxpayer firm u/s 74 of CGST/UPGST, Act reversing the ITC availed by the taxpayer firm alongwith penalty and interest applicable in law.
3. Taxpayer firm has attacked the order passed by learned proper officer before first appellate authority but same was dismissed, hence the taxpayer firm is now before us by bringing present second appeal u/s 112(1) of CGST/UPGST, Act.
4. Learned counsel appearing for taxpayer firm has submitted that order passed by first appellate authority is not in accordance with law and liable to be overturned.
5. On the other hand, learned DR has supported the findings recorded by first appellate authority and submitted for dismissal of appeal.
6. Taxpayer firm has assailed the order under appeal passed by first appellate authority on the ground that transactions in question were genuine and bonafide while learned first appellate authority has passed the impugned order merely on the borrowed satisfaction solely relying on the letter dated 30.09.2023 sent by SIB Mathura and has failed to examine and enquire the facts and circumstances of the case independently, it has been further contended that both the authorities below have decided the matter

mechanically without making independent opinion and considering the evidence on record. While taxpayer has proved the fact of actual supply of goods from alleged firm Dwarkadhish traders, Mathura.

7. Having heard both the authorized representatives appearing for the respective parties, we have gone through the record uploaded on GSTAT portal. Point for determination before this tribunal may be stated as under-

Whether taxpayer firm had availed ITC of Rs. 2,71,253/- without actual inward supply of said goods in the relevant year which are covered by three invoices?

FINDINGS WITH REASONS

8. As stated earlier, bone of contention in the matter is that whether taxpayer firm has availed input tax credit wrongly by reason of fraud or and willful; misstatement or suppression of facts to evade tax? To answer this question, we would like to go through relevant provisions of CGST/UPGST, Act which are reproduced here-

Section 16(1) - Every registered person shall, subject to such conditions and restrictions as may be prescribed and, in the manner, specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

2) Notwithstanding anything contained in this section, 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;

(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;

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

[Explanation. —For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services:

(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title of goods or otherwise;

(ii), where the services are provided by the supplier to any person on the direction of and on account of such registered person.

[(ba), the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;].

(c) subject to the provision of section 41, the tax charge in respect of such supply has been actually paid to the government either in cash or through utilization of input tax credit admissible in the respect of the said supply. And point number

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

3) *********.

4) *********.

5**)** *********

Section 74(1)- where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed by reason of fraud or any willful misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously made or has wrongly availed or utilized ITC requiring him to Show cause as to why he should not pay the amount specified in the notice along with interest payable thereon u/s 50 and an penalty equal to the tax specified in the notice.

9. In this way, a registered person claiming ITC is required certain documents to be submitted as mentioned in sub section (2) of section 16. Further, section 155 provides that where any person claims that he is eligible for ITC under the GST law the burden of proving such claim shall lie on such person. In this way, burden of proof was on the taxpayer firm to prove his claim of ITC as genuine. In the matter in hand, taxpayer firm has submitted tax invoices, e-way bill, lorry receipts, good receipt note, photographs and Bank statements. Ledger account and bank statement highlighting the relevant entries of payment. Learned counsel appearing for taxpayer firm has cited case law M/s Sun flag Iron and steel company ltd. Vs state of U.P and others, 203 AHC. 21 wherein it has been observed that the purpose of e-way bill is that the department should know the movement of goods, once e-way bill has been generated and has not been cancelled by the petitioner with in the prescribe time, the movement of the goods and genuineness in question cannot be disputed. Learned counsel has also drawn our attention to another case law M/s Best crop science pvt. Ltd and others vs Principal Commissioner and Others,2024 (9), TMI, 1543. As rightly held by learned first appellate authority, the facts and question for determination in the cases cited are different from the matter in hand. The ruling therein would not be applicable here.
10. As per department's version which is not in dispute, supplier firm was inspected on 26.09.2023 and found completely a non-existent business firm and transaction in question were happened in the month of June 2023 and thus, gap between transaction and verification of the firm is only three months.
11. Insofar producing e-way bills pertaining to alleged transactions would not be conclusive proof that goods had been actually moved from supplier to recipient. As far as, photographs of vehicle said to be stationed in the business premises of taxpayer firm is concerned, it does not show that photographs were taken on the relevant day. Likewise, goods receipt note may also be fabricated after thought and

after receiving the notice. Thus, the submission of paper tax invoices banking payment entries, lorry receipts and location photographs does not automatically establish genuine physical receipt of goods, as paper trails can easily be created to give an impression of authenticity while no business activity was found on the declared business place of taxpayer in the month of September, 2023 i.e. only after three months of said transactions of goods from supplier to taxpayer firm. Likewise, self-generated photographs without spatial co-ordinates or verifiable audit trails can not override physical inspection findings recorded by special investigation wing.

12. As per section 155 of CGST, Act and matching provision of UPGST law the burden of proving ITC has been validly availed rests strictly on the taxpayer firm once the revenue establishes through physical verification that the supplier is fake and non-existent, while taxpayer has failed to produce independent, verifiable evidence to prove from where the physical goods were sourced, if the supplier did not exist.
13. Besides, as per section 16(C) subject to provision of section 41 or section 43(A) the tax charged in respect of supply has been actually paid to government either in cash or through utilization of input tax credit in respect of the said supply. Thus, taxpayer firm was only entitled to claim ITC by producing the certificate that supplier firm had been deposited the tax to government but taxpayer had not produced such certificate.
14. In case of CIT-07 Delhi vs M/s Odiyan Builders pvt. Ltd. (2019) 110 taxman.com, Hon'ble Apex court has held that a purchase of firm is required to prove its genuineness of inward supply to produce- 1) purchasing bill 2) transport bilty 3. Confirmation of account 4. Registration no. of supplier firm. 5. Bank statement, In this matter no bilty or consignment has been shown by taxpayer. Neither weighment slip, GSTR 2A and other required documents are seemed to be produced.
15. In case of M/s Shiv trading company vs State of U.P and others, writ tax no. 1421 of 2022, Hon'ble Allahabad High court has held that in order to claim ITC recipient must show that tax was deposited by supplier to government while in this matter taxpayer firm could not produced any evidence in this regard.
16. In an another case, M/s Ashtha enterprises Vs commissioner of Commercial tax and others, civil writ case no. 10395 of 2023, it was held that purchaser being a person who claimed ITC could only claim such benefit if the supplier has paid the tax collected form purchaser to the government and not otherwise. The government definitely could used its machinery to recover the amounts from the supplier and a such amount are recovered at a later point of time the purchaser who paid the tax to supplier could possibly seeks for refund. However, as long as the tax paid by the purchaser to the supplier is not paid to the government by the supplier, the purchaser could not raise a claim of ITC under the said statues.
17. In this way and after discussion of facts and circumstances of the case in hand so far. The Tribunal is in agreement with the findings recorded by first appellate authority and proper officer as well, as taxpayer firm could not established the actual inward supply of goods covered by alleged three tax invoices said to be issued by the supplier firm which is found to be a bogus firm just after three months of said transactions.
18. In the result, this second appeal fails and accordingly dismissed by upholding the order in appeal and order in original, as well.
19. There is no pending interim application in the appeal.
20. Order is pronounced in open court on this day of 05th day of November, 2026.

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

Ajeet Singh
Digitally signed by Ajeet Singh
Date: 2026.11.07 19:45:18 +05'30'
(Ajeet Singh)

Vivek Kumar
Digitally signed by Vivek Kumar
Date: 2026.11.07 19:50:42 +05'30'
(Vivek Kumar)