GSTAT

State Bench Prayagraj

Division Bench Court No. I

APL/74/ALB/2026

RAJ TRADING COMPANY **.....Appellant**

Versus

COMMISSIONER CONCERNED UTTAR PRADESH LUCKNOW, COMMISSIONER, STATE GST OFFICE U.P. & ORS. **.....Respondent**

Quorum

Hon'ble Mahtab Ahmad, Member(Judicial)
Hon'ble Ashish Varma, Member (Technical)

Counsel for Appellant	**Counsel for Respondent**
SHRI ARUN KUMAR KUSHWAHA, ADV.	SMT. VIBHA MISHRA, DC/SR
SHRI ANURAG SINGH, ADV.	SHRI SUNEEL KUMAR NIRMAL, AC/ASR

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. : ZN090411126000058H **Date of order :** 19/11/2026

1.	GSTIN/Temporary ID/UIN - 09CDBPR8161H1Z7	
2.	Appeal Case Reference no. - APL/74/ALB/2026	Date - 18/06/2026
3.	Name of the appellant - RAJ TRADING COMPANY , mananshu2018@gmail.com , 9415208970	

4.	Name of the respondent - 1. Himanshu , himanshu.2381979@gov.in , 7235001296 2. Commissioner Concerned Uttar Pradesh Lucknow	
5.	Order appealed against - AD090725045552W	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD090226197309X	Date - 26/02/2026
6.	Personal Hearing - 19/11/2026 05/11/2026	
7.	Status of Order under Appeal - Modified – Order under Appeal is modified	
8.	Order in brief - Appeal No. APL/74/ALB/2026 is partly allowed.	
	Summary of Order	
9.	If demand order then whether demand quantified: Yes	

Place :PRAYAGRAJ

Date : 19.11.2026

Shri Pankaj Yadav

Designation: Legal Assistant

Jurisdiction: Prayagraj

JUDGEMENT

Per: Ashish Varma, Member (Technical)

1. This is an appeal under section 112 of the Central Goods and Services Tax Act, 2017 and the Uttar Pradesh Goods and Services Tax Act, 2017 (together, "the Act") by Smt. Radhika, proprietor of M/s Raj Trading Company, Naini, Prayagraj (GSTIN 09CDBPR8161H1Z7) ("the appellant") in Appeal No. APL/74/ALB/2026. The appellant is a registered dealer in iron and steel goods. The State Tax Department ("the Department") alleges that between April and November 2022 she sold goods without recording the sales in her books or returns, and so did not pay the tax due on them. The proceedings have been these. A show cause notice was issued under section 74 on 16.10.2024. The adjudicating authority, the appellant not having appeared, passed an ex-parte (that is, one-sided) Order-in-Original No. **ZD090325235321O** dated 30.03.2025 under section 74(9). It confirmed tax of ₹38,07,748 (₹32,07,748 payable after credit of ₹6,00,000 paid earlier), interest of ₹15,93,234, and penalty of ₹37,17,748 (after credit of ₹90,000 paid earlier), in all ₹85,18,730. The appellant's appeal to the First Appellate Authority ("FAA") was partly allowed by Order-in-Appeal No. **AD090725045552W** (Demand Order No. **ZD090226197309X**) dated 26.02.2026 ("the impugned order"), which reduced the tax to **₹13,97,074** (CGST ₹6,98,537 and UPGST ₹6,98,537, which together are called "tax" in this order), with penalty of ₹13,97,074 and interest shown as ₹7,17,904 in the body of the order. After credit for ₹6,90,000 already paid by the appellant through Form GST DRC-03 (tax ₹6,00,000 and penalty ₹90,000), the summary of demand in Form GST APL-04 shows **₹25,67,734** as payable (tax

₹7,97,074, interest ₹4,63,586, and penalty ₹13,07,074). Thereafter this appeal has been filed to the Tribunal.

2. The appellant trades in iron and steel goods (pipes, sariya or reinforcement bars, angles, channels and sheets) from her registered place of business at 153/125/1, Chak Daud Nagar, Naini, Prayagraj. Her husband, Shri Raj Kishore Kesarwani, manages the firm. On 29.11.2022 officers of the Special Investigation Branch ("SIB") of the State Tax Department surveyed the premises between 1:45 p.m. and 6:00 p.m. in the presence of two independent witnesses and Shri Sanjay Kesarwani, the proprietor's brother-in-law, who by the appellant's own account looked after the business. The officers recorded what they found in a Panchnama (the written record of the inspection). No stock register or regular books of account were produced at the premises, and Shri Sanjay Kesarwani said that invoices were issued manually and that the computerised records were not available on the spot. The stock found, 177.433 MT (metric tonnes), was listed, seized and left in the appellant's custody. Three sets of records were also seized, which the proceedings call Sanket-01, Sanket-02 and Sanket-03 (together, "the three exhibits"). **Sanket-01** is three serially numbered booklets headed "Sunrise", carrying no firm name, recording outward supplies of goods from 18.11.2022 to 29.11.2022 on 220 slips across three booklets (numbered 1–100, 1–100 and 1–20), each slip noting the payment received and the balance due. **Sanket-02** is the firm's own tax invoice book, containing invoices Nos. 251 to 281 dated 31.08.2022 to 28.11.2022. **Sanket-03** is 55 loose slips of purchases and sales.

3. The appellant was summoned under section 70 of the Act. Her husband appeared as her authorised representative with an advocate, filed supply lists and

trading accounts for 2020-21 to 2022-23 (a trading account states opening stock, purchases, sales and closing stock for a period), and made a statement on oath. He said that he was fully familiar with the Panchnama and the seized records, which belong to the firm; **that the Sunrise booklets are sale/estimate slips for which invoices have been issued; that the invoice book is the firm's regular tax invoice book; and that the 55 loose slips relate to the firm's purchases and sales and record its regular purchases and sales.** That statement has never been retracted. On 29.11.2022 and 31.12.2022 the appellant herself paid, through Forms GST DRC-03 (the form for paying tax or an amount demanded) verified by her as proprietor, tax of ₹4,00,000 and ₹2,00,000 and penalty of ₹60,000 and ₹30,000 (15% of the tax paid), giving the SIB investigation as the reason. No interest was paid with them. The Department then sent an intimation in Form GST DRC-01A on 04.09.2024 and issued the show cause notice under section 74(1) on 16.10.2024, proposing tax of ₹38,07,748, interest and equal penalty. The appellant neither paid nor replied, and did not appear despite reminders and an adjournment. The ex-parte order followed confirming the demand.

4. The appellant appealed to the FAA on 18.07.2025. In hearings on four dates between 23.07.2025 and 27.11.2025 she produced her purchase and sales lists, sales ledger, invoices, stock details and audited accounts. The FAA deleted the notice's estimate of value addition under section 15 and rule 30 (tax ₹3,40,449) and set aside the notice's two stock heads, which were based on estimates. It then compared the entries in each seized exhibit with the appellant's own sales ledger, invoices and returns. Entries that could be found there are called "reconciled" in this order, and the rest "unreconciled". The FAA confirmed tax on the unreconciled balance of each exhibit, on the November

2022 outward supply discrepancy, **and on two stock heads—a recomputed physical stock shortage and a new stock-revaluation head framed by itself**—as follows:

Head	**Shown in seized record, or computed (₹)**	**Found in appellant's own books (₹)**	**Taxable value confirmed (₹)**	**Tax at 18% (₹)**
Sanket-01 (Sunrise booklets)	15,57,282	7,83,095	7,74,187	1,39,354
Sanket-02 (invoice book)	9,46,218	4,68,510	4,77,708	85,987
Sanket-03 (28 loose slips of 2022-23)	25,35,850	21,69,568	3,66,282	65,931
November 2022 outward supplies	31,37,691 (declared at survey)	30,96,455 (later list)	41,236	7,423
Stock: closing stock of 182.733 MT valued at ₹51.50/kg	94,10,750	35,81,594 (book value)	58,29,156	10,49,248
Stock: shortage of 5.3 MT (books 182.733 MT, found 177.433 MT) at ₹51.50/kg	2,72,950	—	2,72,950	49,131
Total (CGST ₹6,98,537 + UPGST ₹6,98,537)			**77,61,519**	**13,97,074**

5. We have heard Shri Arun Kumar Kushwaha, learned counsel, assisted by Shri Anurag Singh, Advocate, for the appellant and Smt. Vibha Mishra, Deputy Commissioner, and Shri Suneel Kumar Nirmal, Assistant Commissioner,

learned State Representatives, for the Department, and have perused the record. The appellant's grounds are these. (i) Sanket-01 holds only non-binding estimates and rough quotations; no supply took place, and entries in loose papers cannot fasten liability (cited ***CBI v. V.C. Shukla***). (ii) The manual invoices were entered in the books later, when the part-time accountant attended, and the total of the invoice book was overstated in the notice. (iii) Sanket-03 comprises internal calculation sheets, truck tare weights and scrap notes (cited ***Common Cause v. Union of India***; ***K.P. Varghese v. ITO***). (iv) The stock-based addition is "imaginary": it rests on a "fictional" opening stock of 9.078 MT instead of the audited 220.6203 MT and an "inflated" rate of ₹51.50 per kg, against the physical stock signed in the Panchnama. (v) Section 74 is not attracted, since GSTR-1, GSTR-3B, GSTR-9 and GSTR-9C were filed and the accounts are audited, the appellant portraying the discrepancies as minor accounting differences and having urged below that section 73 ought to have been invoked instead. (vi) The DRC-03 deposits were extracted under pressure and must be refunded with interest. The learned State Representatives reiterated the findings recorded in the impugned order and supported it.

6. Four points of record may be cleared before we turn to the merits.

First, the figures. The six heads in the table in paragraph 4 give a taxable value of ₹77,61,519 and tax at 18% of ₹13,97,074, which is the tax confirmed by the impugned order. The appellant describes the demand under appeal as ₹32,57,734. That is the gross tax (₹13,97,074), the equal penalty (₹13,97,074), and the interest reflected in Form GST APL-04 (₹4,63,586, as distinct from the ₹7,17,904 mentioned in the body of the impugned order) added together, and so includes the ₹6,90,000 (tax ₹6,00,000 and penalty ₹90,000) she had already paid

through Form GST DRC-03. After credit for that payment, Form GST APL-04 shows ₹25,67,734 as payable. The two figures differ only by the ₹6,90,000.

Second, the three Sunrise booklets are recorded in the notice at ₹9,36,832, ₹3,84,942 and ₹2,55,508, which add to ₹15,77,282, whereas the total stated in the notice and in every order, and adopted by the appellant, is ₹15,57,282. The difference of ₹20,000 is an error in the Department's record. As the demand was confined to the lower figure and the appellant is not prejudiced, we proceed on ₹15,57,282.

Third, as regards the grievance in ground (ii) that the total of the manual invoice book (Sanket-02) was overstated in the notice, the FAA already corrected that figure on verification from ₹9,55,205 to ₹9,46,218, and the demand before us rests on that corrected total.

Fourth, the impugned order once refers to section 73(9). The notice, the original order and the impugned order all proceed under section 74, so the reference is a clerical slip, which section 160 of the Act renders harmless. The ex-parte character of the original order was cured by the hearings in the first appeal, and no ground in the memorandum is directed at it.

7. The first four heads in the table (Sanket-01, Sanket-02, Sanket-03 and the November 2022 supplies) raise a common question: can the seized papers be relied on to show that the appellant actually made the supplies recorded in them? The appellant's case on all three exhibits rests on ***CBI v. V.C. Shukla (1998) 3 SCC 410*** and ***Common Cause v. Union of India (2017) 77 taxmann.com 245 (SC) = (2018) 9 SCC 382***, which hold that loose sheets and random entries are

not "books of account" and cannot by themselves fasten liability without independent evidence of their truth. We accept the principle. It was laid down for papers written by someone else, found in someone else's custody and unconnected with the person charged. However, the exhibits in the instant appeal stand differently, for three reasons. First, they were found at the appellant's own registered place of business, in one seizure, in the care of the person managing her business. Rule 56(10) of the Uttar Pradesh Goods and Services Tax Rules, 2017 ("the Rules") presumes, unless proved otherwise, that documents of a registered person found even at premises other than those registered are maintained by him; the presumption applies even more so to the registered premises. Second, her authorised representative claimed all three exhibits as the firm's records on oath, in an inquiry that section 70(2) deems a judicial proceeding, and has never retracted that statement. Third, and decisively, the exhibits are corroborated by the appellant's own books: about half of Sanket-01 by value, about half of Sanket-02 and about 86% of Sanket-03 were reconciled by the FAA with her returns, ledger and invoices. **A record whose entries prove true on this scale is a genuine record of her business, and that is the independent evidence of trustworthiness which *V.C. Shukla (1998) 3 SCC 410* requires.** The appellant selectively accepts what favours her, namely, the reconciled entries, and disowns the rest that prejudices her, namely, the balance of unreconciled entries. What the unreconciled entries represent lies specially within her knowledge, and under section 106 of the Indian Evidence Act, 1872 (re-enacted in the Bharatiya Sakshya Adhiniyam, 2023) she was bound to explain them once the statutory presumption and partial corroboration shifted the onus onto her. ***K.P. Varghese v. ITO (1981) 131 ITR 597 (SC)***, cited by the

appellant, concerned a statutory deeming fiction in section 52(2) of the Income-tax Act, 1961; on the first four heads the Revenue relies on no deeming fiction, but on actual records of sale.

8. We take the Sunrise booklets (**Sanket-01**) first. The booklets carry no firm name, their slips run to serial 220 in eleven days, and each slip records the payment received and the balance due. That is how completed sales are recorded, and not quotations. The appellant's position has changed with each forum. Before the SIB her representative described the booklets as sale/estimate slips "for which invoices have been issued", and her written explanation to the SIB asserted that nothing in them was beyond verification from her books. Before the FAA, and again before us, she says they hold only estimates and rough quotations on which no delivery was made. Such a version, which first appeared at the first appeal stage, contradicts both earlier positions, and no quotation, customer, delivery record or confirmation of any kind has been produced to support it. Of the ₹15,57,282 recorded in the booklets, only ₹7,83,095 could be traced to her declared supplies, and that shows that these booklets are the records of her own sales. For the balance of ₹7,74,187 she has shown nothing to take it out of what the slips say. **The addition of ₹7,74,187 is sustained.**

9. The invoice book (**Sanket-02**) is the firm's own, in the prescribed form, and the notice records that its invoices carry tax at 18%, which the appellant has not denied. Her explanation to the SIB was that manual bills are re-issued in the computer in sequence and so appear in her books and returns; before the FAA it became that a part-time accountant enters them later. The SIB survey took place on 29.11.2022, and Sanket-02 contained manual tax invoices Nos. 251 to 281 dated 31.08.2022 to 28.11.2022. On 29.11.2022, the monthly return for

November 2022 had not yet fallen due (and the annual return for 2022-23 was months away). Standing alone, the mere fact that a late-November invoice (such as invoice No. 281 dated 28.11.2022) was not yet in a filed return on 29.11.2022 would not prove suppression, especially given the appellant's claim that a part-time accountant enters manual bills into the computer later. However, in post-survey proceedings and during the first-appeal hearings held between 23.07.2025 and 27.11.2025, the appellant produced her sales ledger, invoices, supply lists, and audited accounts. When the FAA tested the ₹9,46,218 total of Sanket-02 against those post-survey records, ₹4,68,510 was traced to her regular books, leaving ₹4,77,708 untraced. Even in this appeal, the appellant identifies no ledger entry or return in which that balance appears. **A tax invoice is issued and tax collected; if it is not reported, the tax is suppressed** (sections 12(2)(a) and 31 read with section 74). **The addition of ₹4,77,708 is sustained.**

10. The loose slips (**Sanket-03**) number 55, of which 28 relate to 2022-23 with a recorded value of ₹25,35,850; the FAA traced ₹21,69,568 of that to the appellant's books. Her present case, that the rest are tare weights, calculation sheets and scrap notes, contradicts the sworn statement of her representative that the slips relate to the firm's purchases and sales, and her own written explanation to the SIB that they are inward and outward supplies verifiable from her books. It is also contradicted by the 2022-23 slips in issue, which, as tabulated in the notice, each bear a date, a description of the iron goods and a value. No evidence of what any slip is has been offered by the appellant. **The addition of ₹3,66,282 is sustained.** The same reasoning applies to the November 2022 difference of ₹41,236. The appellant's own figure of outward supplies for November 2022 on the survey date was ₹31,37,691, and a later list reduced it to ₹30,96,455, the

explanation being that some bills had been issued and cancelled. No cancelled invoice, credit note or customer confirmation was produced, and issue of an invoice fixes the time of supply (section 12(2)(a)). **That addition of ₹41,236 is sustained.**

11. **The last two heads concern the appellant's stock of goods**, and together carry tax of ₹10,98,379 of the ₹13,97,074. They need separate treatment because, unlike the other heads, they rest on no record of any sale. The appellant gave the SIB two trading accounts for 2022-23 up to the survey date. The first showed closing stock (goods remaining unsold at the survey date) of 140.242 MT; the second, substituted after the discrepancy was pointed out, showed 182.733 MT. The value shown in both was ₹35,81,594. The notice had estimated unaccounted stock by assuming an opening stock (stock at the start of the period) of 9.078 MT. The FAA rejected that assumption and accepted the appellant's year-wise accounts, which show an opening stock of 220.6203 MT for 2020-21. It then made two findings of its own. Ground (iv) of the Tribunal appeal misreads the impugned order, which rejected the 9.078 MT figure adopted in the notice and original order and did not adopt it, but the two findings must in any case be examined on their own merits.

(a) The first finding is that the physical stock found was 177.433 MT against 182.733 MT in the books, a shortage of 5.3 MT, which the FAA valued at ₹51.50 per kg, giving ₹2,72,950. The figure of 182.733 MT is the appellant's own, given after the survey in place of a lower one, and section 35(1)(c) of the Act read with rule 56(2) of the Rules required her to maintain a true and correct stock account, none of which was produced on the day. Where a registered person fails to account for goods in accordance with section 35(1), section 35(6) directs that the

proper officer shall determine the tax payable on the goods that are not accounted for, as if such goods had been supplied by such person, and apply the provisions of section 74 mutatis mutandis. **Goods found short of the appellant's own book stock are unaccounted goods under section 35(6) and, on the probabilities, goods that left the premises unaccounted for, and she offers no other explanation.** Her plea that the difference is one of "valuation, not quantity" is untenable: 182.733 MT against 177.433 MT is a difference in quantity. Nor has the appellant pleaded any overlap or correlated the 5.3 MT shortage with any specific sales recorded in the three exhibits. The head falls squarely within the ground stated in the notice (stock found against stock per books), the FAA having merely recomputed the stock position on the appellant's own substituted trading account rather than introducing a new ground under section 75(7). Further, the shortage is valued conservatively at average purchase cost with no profit added. **The addition of ₹2,72,950 is sustained.**

(b) The second finding is the addition of ₹58,29,156 (tax ₹10,49,248) on what the FAA called revaluation of closing stock. The appellant's books carry the 182.733 MT of closing stock at a total of ₹35,81,594, which works out to ₹19.60 per kg. The FAA took ₹51.50 per kg as the appellant's average purchase rate and valued the same quantity at that rate at ₹94,10,750. It treated the difference of ₹58,29,156 as the value of sales that the appellant had suppressed, and taxed it at 18%. **We are unable to uphold this addition, because the difference is not a supply, and tax under the Act is levied only on a supply.**

Tax is charged by section 9 on the supply of goods, the time of supply is fixed by section 12 and its value by section 15, and section 74 applies only on tax that

has become payable on a supply and has not been paid or has been short paid. This addition of ₹58,29,156 does not rest on any seized slip, invoice, ledger entry, buyer, price or date of sale. It is a computation, in which the value at which the appellant carried her closing stock is set against the value of the same stock at her average purchase cost. **A difference between two valuations of the same stock is a difference in valuation, and it is not a sale.** The FAA's own method shows this, because it values the goods at cost with no profit added, which is how stock is valued and not how a selling price is fixed.

The FAA's own findings also exclude a sale. It accepted the quantity of 182.733 MT in the appellant's books and found that 177.433 MT was physically present at the premises on 29.11.2022, as listed in the Panchnama and left in the appellant's custody. The quantities therefore agree, apart from the 5.3 MT shortage taxed separately under (a). **Goods that were lying unsold at the appellant's premises on the date of the survey cannot at the same time be treated as goods already sold.** Goods have not yet been supplied, and no tax has yet become payable on them. The 5.3 MT shortage stands on a different footing: there, goods recorded in the appellant's own books were not found at the premises, so that they had gone out unaccounted for, and she gave no explanation. In the present head the goods are present, and nothing physical supports a sale.

The Act contains no provision under which a difference in the valuation of stock is treated as a supply. Section 35(6) of the Act deems a supply only where a registered person fails to account for goods in accordance with section 35(1), and empowers determination of tax solely on goods "that are not accounted for";

here, the 177.433 MT physical stock was found present at the registered premises and accounted for in the Panchnama, so a difference between book value and purchase cost of unsold stock does not attract section 35(6). Rule 56(6) of the Rules treats goods as supplied only where taxable goods are found stored at a place other than those declared in the registration, without valid documents; this stock was at the appellant's registered place of business. Section 35(1)(c) of the Act and rule 56(2) of the Rules require a stock account to be kept; failure to keep it justifies an adverse view of the appellant's accounts, but neither provision creates a supply where goods are physically present. The addition also goes beyond the notice. The notice taxed the physical stock and a shortfall on estimated values, assuming an opening stock of 9.078 MT. It did not allege that sales equal to the difference between the book value and the cost of stock had been suppressed. After setting aside the notice's estimate-based stock heads, the FAA added a different ground of its own. Further, **section 75(7) provides that no demand shall be confirmed on grounds other than those specified in the notice**, and the appellant had no occasion to answer this ground in reply to the notice. That is a further and independent reason for deleting the head.

We note that the appellant carried her stock at ₹19.60 per kg against a purchase rate of ₹51.50 per kg without explanation, and she changed the stock quantity in her trading account after the survey, from 140.242 MT to 182.733 MT. These facts go to the credibility of her books, and we have weighed them in rejecting her explanations on the other heads and in finding intent to evade in paragraph 12. The other heads stand because each rests on a record of actual sales found at her premises and acknowledged by her representative on oath. **Unreliable books justify close scrutiny of a taxpayer's explanations; they do not turn unsold**

stock into a taxable supply. The appellant therefore succeeds on this head, though not on the reasoning of ground (iv) of the Tribunal appeal. **The addition of ₹58,29,156 is deleted.**

12. The appellant contends under ground (v) that section 74 is not attracted because she filed GSTR-1 (the statement of outward supplies), GSTR-3B (the monthly return), GSTR-9 (the annual return) and GSTR-9C (the reconciliation statement), and her accounts are audited, portraying the discrepancies as minor accounting differences and urging below that section 73 ought to have been invoked instead. That does not help her, since the case against her is that these supplies were left out of those very returns. Section 74 applies where tax has not been paid or has been short paid by reason of fraud, wilful misstatement or suppression of facts to evade tax. Explanation 2 to section 74, as it stood during the period in dispute and on the date of the show cause notice (16.10.2024) prior to its omission with effect from 01.11.2024 by the Finance (No. 2) Act, 2024, defines "suppression" as non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under the Act or the Rules, or failure to furnish any information on being asked for in writing by the proper officer.

Suppression is thus tested when a return is furnished, and not on the date of the survey. On 29.11.2022 the return for November 2022 had not fallen due and the annual return for 2022-23 was months away; nothing could have been suppressed in them on that day, and **we do not rest our finding on the survey date. It rests on what the appellant did afterwards.** After the SIB had inspected her premises, seized the Sunrise booklets, the invoice book and the

loose slips, recorded her authorised representative's sworn statement claiming them as the firm's records, and received ₹6,90,000 from her through Forms GST DRC-03 on the footing of those proceedings, she subsequently furnished her return for November 2022 in Form GSTR-3B and her annual return for 2022-23 in Form GSTR-9, along with Form GSTR-9C. By then she knew of these seized records and was bound to declare the supplies. The supplies confirmed in this order are those which the FAA found unreconciled with her returns, ledger and invoices. **Suppression therefore crystallised on the furnishing of the return for November 2022 as to the supplies of that month, and on the furnishing of the annual return as to all supplies of the year.** Where returns for earlier months had already fallen due before the survey, the same omission in them is a further ground. The DRC-03 deposits do not answer this: they were lump sums paid during investigation, and not a declaration of supplies in the return as Explanation 2 requires.

Intent to evade is affirmatively established by the cumulative conduct on record: conducting sales on unnamed booklets carrying no firm name, issuing invoices from a manual tax invoice book with 18% tax charged that were omitted from the computerised ledger and returns, failing to maintain true and correct accounts of outward supplies and stock as required under section 35(1)(b) and (c) of the Act and rule 56(2) of the Rules, restating the closing stock quantity after the survey from 140.242 MT to 182.733 MT, defaulting at every stage before the adjudicating authority, and—above all—furnishing subsequent returns without declaring the very supplies recorded in the seized exhibits already acknowledged on oath. This is not a bona fide difference of view or minor accounting discrepancy, and section 73 (which applies where there is no fraud, wilful

misstatement or suppression) is not the right provision. Section 75(2) would assist the appellant only if suppression had not been established; here it has been. Penalty equal to the tax follows under sections 74(1) and 74(9), as held in ***Union of India v. Rajasthan Spinning & Weaving Mills 2009 (238) ELT 3 (SC)*** under the corresponding provision, and interest under section 50 is payable whether or not specified in the order (section 75(9)).

13. The appellant says the DRC-03 payments were extracted under pressure. The plea fails. Both payments were made by forms verified by the appellant as proprietor, one a month after the survey, each stating the SIB investigation as the reason. No complaint, retraction or representation to any authority is on record, and the plea appears for the first time in the first appeal filed on 18.07.2025, more than two and a half years later, without any supporting material. Because the sustained liability of ₹3,47,826 is independently established on merits from the seized records and stock shortage, the DRC-03 deposits are appropriated against the confirmed demand without needing to rely on them as an admission, and are absorbed in full against the sustained tax and penalty, leaving no part of the DRC-03 deposits refundable (paragraph 14).

14. Under section 113(1) the Tribunal may confirm, modify or annul the order appealed against, and under section 75(8) the interest and penalty stand modified when the tax is modified. The deletion of the revaluation head is the only change made to the findings of the FAA on the facts; every other finding is affirmed. The tax on the heads that are sustained is:

Head sustained	Taxable value (₹)	Tax at 18% (₹)
Sanket-01	7,74,187	1,39,354
Sanket-02	4,77,708	85,987
Sanket-03	3,66,282	65,931
November 2022 supplies	41,236	7,423
Stock shortage, 5.3 MT	2,72,950	49,131
Total (CGST ₹1,73,913 + UPGST ₹1,73,913)	**19,32,363**	**3,47,826**

In sum, we hold that tax of **₹3,47,826** stands confirmed on five heads that rest on records of actual supplies or on goods found missing from stock, while the largest head, ₹58,29,156 (tax ₹10,49,248), is only the difference between two valuations of stock that was lying unsold, is not a supply, and is deleted.

The tax of ₹3,47,826 is covered by the first DRC-03 payment of ₹4,00,000 on 29.11.2022 and stands discharged from that date. The penalty equal to the tax is ₹3,47,826, against which ₹90,000 has been paid through DRC-03, leaving ₹2,57,826. After setting off the excess DRC-03 tax of ₹2,52,174 (₹6,00,000 less ₹3,47,826) against that penalty balance, the remaining unpaid penalty is **₹5,652**. As for interest under section 50, tax for November 2022 had not yet fallen due on 29.11.2022, when the entire sustained tax was discharged by the first DRC-03 payment; consequently, **no interest is payable on the November 2022 component of the sustained tax** (comprising Sanket-01 ₹1,39,354, November 2022 supplies ₹7,423, and any November 2022 invoices or slips in Sanket-02 and Sanket-03), and interest under section 50 accrues only on the portion of the ₹3,47,826 pertaining to tax periods prior to November 2022 from each period's

respective due date up to 29.11.2022. Interest and penalty confirmed in the impugned order beyond these amounts do not survive.

In addition to the DRC-03 payments, the record in Form GST APL-05 shows statutory pre-deposits of **₹3,20,776** (CGST ₹1,60,388 and UPGST ₹1,60,388) for the first appeal under section 107(6), and **₹79,708** (CGST ₹39,854 and UPGST ₹39,854) for this appeal under section 112(8), the latter consisting of **₹36,271** debited from the Electronic Cash Ledger and **₹43,437** debited from the Electronic Credit Ledger. Under section 49(4) of the Act and rule 85(4) of the Rules, the Electronic Credit Ledger cannot be used to pay interest or penalty, which must be discharged through the Electronic Cash Ledger. Accordingly, subject to ledger verification, only the **cash portion** of the pre-deposits shall be applied toward the unpaid penalty balance of ₹5,652 and the recomputed section 50 interest, with any excess cash refundable to the appellant along with interest under section 115 read with section 56 from the date of payment till the date of refund.

15. **To sum up**, the appellant's explanations—that the Sunrise booklets (Sanket-01) hold only non-binding estimates and rough quotations, that the manual invoices (Sanket-02) were entered into the computerised books later by a part-time accountant, and that the unreconciled loose slips (Sanket-03) are internal calculation sheets, truck tare weights, and scrap notes—are not established by any material. They are her own business records, claimed on oath by her authorised representative under section 70, corroborated in large part by her own books, and left unexplained as to the unreconciled balances (as is the November 2022 outward supply difference of ₹41,236). The 5.3 MT of goods

missing from physical stock is likewise unexplained and is taxable under section 35(6) read with section 35(1)(c) and rule 56(2). Suppression with intent to evade tax is made out under section 74, and penalty equal to the tax follows. On the revaluation of closing stock, we hold that no supply has been shown. The goods were in stock and unsold; the impugned order identifies no sale, buyer, price, or date; the head is a valuation difference and not a supply; the finding that the goods were present is irreconcilable with treating them as sold; no deeming provision (including section 35(6) or rule 56(6)) applies; and the ground was not in the notice. The addition of ₹58,29,156 is therefore deleted, and the tax is reduced from ₹13,97,074 to ₹3,47,826, with penalty and interest modified under section 75(8). **The appeal therefore succeeds in part.**

ORDER

In the result:

(i) Appeal No. **APL/74/ALB/2026** is partly allowed.

(ii) Order-in-Appeal No. **AD090725045552W** (Demand Order No. **ZD090226197309X**) dated 26.02.2026 is modified under section 113(1). The addition of ₹58,29,156 on revaluation of closing stock (tax ₹10,49,248) is deleted. The additions totalling ₹19,32,363 are confirmed under section 74, namely Sanket-01 ₹7,74,187, Sanket-02 ₹4,77,708, Sanket-03 ₹3,66,282, November 2022 supplies ₹41,236, and the 5.3 MT stock shortage ₹2,72,950.

(iii) The tax confirmed is **₹3,47,826** (CGST ₹1,73,913 and UPGST ₹1,73,913). An equal penalty of **₹3,47,826** is imposed under section 74(9). Interest under section 50 is payable only on that portion of the sustained tax which pertains to

tax periods prior to November 2022, from the respective due dates of payment up to 29.11.2022 (when the sustained tax stood discharged by the first DRC-03 payment), excluding the November 2022 tax component. Interest and penalty beyond this are set aside under section 75(8).

(iv) The DRC-03 payments (tax ₹6,00,000 and penalty ₹90,000) are credited. The excess tax of ₹2,52,174 is adjusted against the penalty balance of ₹2,57,826, leaving an unpaid penalty balance of ₹5,652.

(v) Subject to verification from the electronic ledgers, the cash portion of the pre-deposits paid for the first appeal under section 107(6) (₹3,20,776) and for this appeal under section 112(8) (₹36,271 paid in cash out of ₹79,708) shall be applied against the remaining penalty balance of ₹5,652 and the recomputed interest payable under section 50 in accordance with section 49(3)–(4) and rule 85(4). The net surplus cash amount shall be refunded to the appellant within sixty days of receipt of this order, with interest under section 115 read with section 56 from the date of payment till the date of refund. The pre-deposit debited from the Electronic Credit Ledger (₹43,437 under section 112(8) and any credit-ledger portion under section 107(6)) shall be re-credited to the Electronic Credit Ledger by an order in **FORM GST PMT-03** under rule 92(1A).

(vi) A summary of this order shall be issued in **FORM GST APL-04A** in accordance with rule 113(2) of the Rules, and the electronic liability register (**FORM GST PMT-01**) shall be updated accordingly under rule 85(5).

(vii) All pending applications stand disposed of. A copy of this order be sent to both parties and the authorities concerned.

Dated: 19.11.2026

Digitally signed by ASHISH VARMA
Date:19-11-2026 12:12:26 PM

Ashish Varma
MEMBER (TECHNICAL)

Digitally signed by MAHTAB AHMAD
Date:19-11-2026 12:09:11 PM

Mahtab Ahmad
MEMBER (JUDICIAL)

The judgement is signed, dated and pronounced today in the open court.

Digitally signed by ASHISH VARMA
Date:19-11-2026 12:13:29 PM

Ashish Varma
MEMBER (TECHNICAL)

Digitally signed by MAHTAB AHMAD
Date:19-11-2026 12:09:46 PM

Mahtab Ahmad
MEMBER (JUDICIAL)

Dated: 19.11.2026