GSTAT

Division Bench Court No. Court II

APL/26/HYD/2026

SRI PARAMESHWARA BRICKS **............Appellant**

Versus

STATE TAX OFFICER, O/O STATE TAX OFFICER PEDDAPALLI CIRCLE KARIMNAGAR DIVISION TELANGANA, STATE TAX OFFICER PEDDAPALLI CIRCLE & ORS. **............Respondent**

Counsel for Appellant
SRINIVAS

Counsel for Respondent
SHRI NARENDER REDDY, STATE REPRESENTATIVE

CORAM:

Hon'ble A P Ravi, Member(Judicial)
Hon'ble Duvvuri Krishna Srinivas, Member (Technical)

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. : ZA360360826000171H

Date of order : 20/08/2026

1.	GSTIN/Temporary ID/UIN - 36AJCPC3928N1Z3	
2.	Appeal Case Reference no. - APL/26/HYD/2026	Date - 23/02/2026
3.	Name of the appellant - SRI PARAMESHWARA BRICKS , chinthapanduanjaiah@gmail.com , 9948975101	

4.	Name of the respondant - 1. NV Satyanarayana Assistant Commissioner State Tax , ac-genl@tgct.gov.in , 9121629255 2. State Tax Officer Peddapalli Circle
5.	Order appealed against - AD3606240242970
	(5.1) Order Type - Demand Order
	(5.2) Ref Number - ZD360125046032X Date - 27/01/2025
6.	Personal Hearing - 20/08/2026 13/08/2026 30/07/2026 03/07/2026
7.	Status of Order under Appeal - Modified – Order under Appeal is modified
8.	Order in brief - Denial of benefit of composition scheme, under Section 10(1) of TGST/CGST Act, 2017, upon crossing the threshold limit of Rs.1.5 crores. The benefit of cum-tax under Rule 35 of TGST/CGST Rules, 2017 was extended. The proper officer has been directed to recompute the tax liability and the consequent interest and penalty. The order impugned is modified to this extent. The appeals have thus, been disposed of.

Summary of Order

9.	If demand order then whether demand quantified: Yes

Section-I

Particulars	Central tax		State/UT tax		Integrated tax			Cess		Total
	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount
1	2	3	4	5	6	7	8	9	10	11

(a) Tax	321928		321928		0		0		643856	0
(b) Interest	0		0		0		0		0	0
(c) Penalty	0		0		0		0		0	0
(d) Fees	0		0		0		0		0	0
(e) Others										0
(f) Refund										0

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	696588	

<u>FINAL ORDER</u>

COMMON ORDER Nos. 001/HYD/2026 & 002/HYD/2026

Date of Hearing: 13.08.2026
Date of Pronouncement: 17.08.2026

Per: A P Ravi, Member (Judicial)

1.0 The present common order disposes of Appeal Nos. APL/126/HYD/2026 and APL/26/HYD/2026, preferred by M/s. Parameswara Bricks in respect of the tax periods 2020–21 and 2021–22, respectively. Since both the appeals arise out of substantially identical facts and involve a common question of law and fact, they were heard together and are being disposed of by this common order.

2.0 The appellants are engaged in the manufacture and supply of red clay bricks and are registered under Section 10(1) of the Telangana Goods and Services Tax Act, 2017 (hereinafter referred to as "the TSGST Act"). The appellants have opted for and have been availing the benefit of the composition scheme prescribed under the Act. In terms of the said scheme, the appellants were liable to discharge tax at the prescribed composition rate of 1% in respect of the impugned goods under the TSGST Act as well as under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the CGST Act").

3.0 During the relevant tax periods, the appellants were governed by the composition scheme under Section 10(1) of the TSGST Act, as applicable in the State of Telangana, read with the CGST Act, the prescribed aggregate turnover threshold being ₹1.50 crore. Upon the aggregate turnover of a registered person exceeding the said statutory limit, such person ceases to be entitled to continue under the composition scheme and becomes liable to discharge tax at the applicable regular rate, in accordance with law, in lieu of the concessional composition levy.

4.0 The appellants were subjected to audit by the jurisdictional Audit Officers. Upon examination and comparison of the turnover reflected in the e-way bills generated by the appellants during the relevant periods with the turnover declared in their respective FORM GST CMP-08 statements, the audit authorities noticed an apparent discrepancy between the two sets of figures.

4.1 It may be noted that, in terms of Rule 138(1) of the Telangana Goods and Services Tax Rules, 2017 (hereinafter referred to as “the Rules”), every registered person is required to furnish the prescribed particulars in an e-way bill before the commencement of movement of goods, subject to the applicable monetary threshold, including the prescribed limit of ₹1,00,000/-, and subject to such exemptions and conditions as may be notified by the Government from time to time.

4.2 The audit authorities alleged that, during the financial year 2020–21, the appellants had exceeded the prescribed turnover limit for availing the benefit of the composition scheme. According to the figures reflected in the e-way bills generated by the appellants, their aggregate turnover amounted to ₹1,95,53,800/-, whereas the turnover declared by them in their FORM GST CMP-08 statements was only ₹1,44,86,100/-.

4.3 On that basis, the audit authorities concluded that the appellants had exceeded the prescribed threshold of ₹1.50 crore for eligibility under the composition scheme. It was accordingly alleged that the differential turnover of ₹50,67,700/- had not been subjected to tax at the applicable normal rate and had, therefore, escaped assessment.

4.4 In respect of the financial years 2020-21 & 2021–22, the audit authorities placed reliance upon Section 10(3) of the TSGST Act and contended that, once the turnover of a taxable person exceeded the prescribed threshold during a financial year, the taxable person would cease to be eligible for the composition scheme.

4.5 Accordingly, the audit authorities proposed that the benefit of the composition scheme was unavailable to the appellants for the financial years 2020-21 & 2021–22 and that tax was consequently liable to be demanded on the turnover, after deducting ₹1.50 crores, reflected in the e-way bills for the period 2020-21.

4.6 Pursuant to the aforesaid audit objections, show-cause notices were issued to the appellants proposing the recovery of differential tax for both the financial years in question. While computing the proposed liability, the rate of tax was initially adopted at 28%, comprising 14% CGST and 14% SGST, instead of the applicable rate of 5%.

4.7 Upon adjudication, however, the proper officer restricted the confirmation of the tax demand to the applicable rate of 5%, in proceedings initiated under Section 73 of the TSGST Act. The proper officer further ordered recovery of applicable interest in terms of Section 50(1) of the Act and imposed a penalty equivalent to 10% of the tax under Section 73 of the Act.

4.8 Aggrieved by the said order, the appellants preferred appeals before the First Appellate Authority. The First Appellate Authority, however, upheld the order passed by the adjudicating authority and dismissed the appeals.

4.9 Being aggrieved by the impugned order, the appellants have preferred the present appeals before this Bench in respect of both the aforesaid financial years.

4.10 The appellants seek setting aside of the impugned order; restoration and continuation of the benefit of the composition scheme; annulment of the demands towards tax, interest and penalty; and refund of the amounts deposited by them as pre-deposit, together with all consequential reliefs.

5.0 The principal issue that arises for consideration in the present appeals is whether, during the respective financial years under consideration, the appellants had exceeded the prescribed threshold turnover of ₹1.50 crore and, consequently, had ceased to be eligible for the benefit of the composition scheme. A further question requiring determination is whether the First Appellate Authority, while exercising jurisdiction under Section 107 of the TSGST Act, 2017, was justified in affirming the order passed by the adjudicating authority and in dismissing the appeals preferred by the appellants.

6.0 Heard both sides.

7.0 The learned counsel appearing for the appellants submits that the excess over the prescribed threshold turnover occurred inadvertently and without any deliberate or conscious intent on the part of the appellants. It is contended that, during the period in question, the appellants' business operations were adversely affected by the COVID-19 pandemic, on account of which they were unable to properly monitor and administer their business affairs, including their turnover and consequential tax compliances.

8.0 The learned counsel further submits that the appellants were acting under a bona fide and reasonable belief that they continued to be eligible to avail the benefit of the composition scheme. It is asserted that the appellants neither suppressed any material particulars nor acted with any mala fide intention to wrongly avail or retain the benefit of the scheme.

9.0 The learned counsel submits that no further submissions are sought to be advanced on behalf of the appellants and requests that the appeals may be adjudicated on the basis of the submissions already placed on record.

10.0 Per contra, the learned Departmental Representative ("DR") draws our attention to the cross-objections filed by the Department in both appeals. He submits that the voluntary payments made by the appellants were calculated at the composition-scheme rate and, consequently, fell substantially short of the tax actually payable.

11.0 The learned DR further submits that, upon the appellants exceeding the prescribed threshold limit for availing the composition scheme, they became liable to discharge tax at the applicable regular rate. Accordingly, the appellants are liable to pay an additional amount of ₹1,27,250/- (₹63,625/- each as CGST and TSGST) for the financial year 2020–21 and ₹6,43,856/- (₹3,21,928/- each as CGST and TSGST) for the financial year 2021–22.

12.0 It is further submitted that the aforesaid demand has been determined after duly taking into account and allowing for the errors appearing in the e-way bills. The learned DR, therefore, prays that the appeals filed by the appellants be dismissed and the demands confirmed by the lower authorities be sustained.

13.0 The learned DR submits that he has no further submissions to make and requests that the matter be decided on the basis of the submissions already placed on record.

14.0 It is an admitted position that the appellant exceeded the prescribed threshold limit of aggregate turnover in both the financial years under consideration. A plain reading of Section 10(3) of the Act makes it abundantly clear that the option exercised under the composition scheme ceases to operate from the date on which the aggregate turnover of the registered person exceeds the threshold limit of ₹1.50 crore prescribed under Section 10(3) of the Act. Upon such cessation, the registered person becomes liable to discharge tax at the applicable rate under the regular scheme, instead of the concessional rate prescribed for composition taxpayers. The relevant provision is reproduced below:

> *"(3) The option availed of by a registered person under sub-section (1) 10[or sub-section (2A), as the case may be] shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1) 10[or sub-section (2A), as the case may be]."*

14.1 The consequence of such cessation is statutorily delineated in Rule 6(2) of the CGST/TSGST Rules, 2017, which provides that a person ceasing to satisfy any of the conditions prescribed under Section 10 shall, from the date of such cessation, be liable to pay tax under Section 9(1), issue tax invoices for all taxable supplies thereafter, and intimate withdrawal from the scheme in FORM GST CMP-04 within seven days of the occurrence of such event. The relevant portion of the said rule is reproduced below:

> *"(2) The person referred to in sub-rule (1) shall be liable to pay tax under sub-section (1) of section 9 from the day he ceases to satisfy any of the conditions mentioned in section 10 or the provisions of this Chapter and shall issue tax invoice for every taxable supply made thereafter and he shall also file an intimation for withdrawal from the scheme in FORM GST CMP-04 within seven days of the occurrence of such event."*

14.2 For the aforesaid purpose, the expression *'aggregate turnover'* bears the meaning assigned to it under Section 2(6) of the Act, namely, the aggregate value of all taxable supplies, exempt supplies, exports of goods or services or both, and inter-State supplies of persons having the same PAN, computed on an all-India basis, but excluding the value of inward supplies on which tax is payable under reverse charge, as also Central Tax, State Tax, Union territory tax, integrated tax and cess.

15.0 In the present case, there is no controversy that the appellants had exceeded the threshold limit of ₹1.50 crore during the financial year 2020–21. Upon the aggregate turnover crossing the statutory ceiling prescribed under the Act, the appellants ceased to remain eligible for the benefit of the composition scheme from the date of such crossing. The consequence flowing from Section 10(3) of the Act is automatic and operates by force of statute, whereby the composition levy stands terminated on the occurrence of the disqualifying event. As a result, the appellants became liable to discharge tax at the applicable regular rate on all supplies made on and after the date of such lapse, subject to due credit and adjustment of any composition tax already paid in respect of such post-lapse turnover.

16.0 It is further observed that the Department duly considered the appellants' contention regarding the typographical errors allegedly occurring in certain e-way bills raised by them. The impugned demand was determined after excluding the excess turnover attributable to such errors, as accepted by the Department. In the absence of any further oral submissions on behalf of either party beyond the written submissions already placed on record, and having regard to the material available before us, we find no sufficient ground to interfere with the figures determined in the impugned orders or with the findings recorded by the adjudicating authority.

17.0 Although no specific arguments were advanced by the learned Counsel regarding the method adopted for computation of the differential tax, we consider it appropriate to examine the issue in the light of Section 10(4) of the Act. The relevant provision is reproduced below:

> *"(4) A taxable person to whom the provisions of sub-section (1) 10[or, as the case may be, sub-section (2A)] apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax."*

The provision is clear and admits of no ambiguity. A person opting for the composition scheme is prohibited from collecting tax from the recipient and is also not entitled to avail input-tax credit. Therefore, during the period in which the appellants operated under the composition scheme, they could not have collected GST separately from their customers or shown any GST component in the invoices issued by them.

17.1 The invoices issued by the appellants must, therefore, be understood as reflecting the total consideration received from the recipients, without any separately identifiable tax component. The question that arises is whether the differential tax should be calculated on the entire value declared in those invoices or whether the benefit of the cum-tax principle under Rule 35 of the Rules should be extended to the appellants.

17.2 Rule 35 provides as follows:

> *"Rule 35. Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax.—Where the value of supply is inclusive of integrated tax or, as the case may be, central tax, State tax, Union territory tax, the tax amount shall be determined in the following manner, namely,—*

Tax amount = (Value inclusive of taxes × tax rate in % of IGST or, as the case may be, CGST, SGST or UTGST) / (100 + sum of tax rates, as applicable, in %)"

17.3 The present case falls within the scope of Rule 35. Since the appellants were not permitted to collect tax separately from the recipients, and the Department has not alleged that they had, in fact, collected any tax over and above the invoice value, the value declared in the invoices must be treated as inclusive of tax.

17.4 The tax component must consequently be worked out in accordance with the formula prescribed under Rule 35. Tax cannot be calculated on an amount which already includes the tax component. The benefit of cum-tax valuation is, therefore, required to be extended while determining the differential tax liability.

18.0 It may be observed that the appellants did not specifically claim the benefit of Rule 35 either before this Bench or before the authorities below. In our view, this omission cannot disentitle them from receiving a benefit available under the Act and the Rules, particularly when the relevant facts are already available on record.

18.1 Rule 35 is intended to ensure that tax is calculated on the value of the supply exclusive of the tax component. The authorities are required to determine the correct tax liability in accordance with law. They cannot collect tax in excess of what is legally payable merely because the taxpayer did not specifically claim a statutory benefit.

19.0 It is a settled principle that the Department must collect the tax legally due—neither more nor less. In this regard, reliance may be placed on the judgment of the Hon'ble Supreme Court in *M/s. Unichem Laboratories Limited* *v. Collector of Central Excise, Bombay*, reported in 2002-TIOL-237-SC-CX, wherein it was observed:

> *"13. For the aforementioned reasons, we are of the view that denial of benefit of the notification to the appellant was unfair. There can be no doubt that the authorities functioning under the Act must, as are in duty bound, protect the interest of the Revenue by levying and collecting the duty in accordance with law - no less and also no more. It is no part of their duty to deprive an assessee of the benefit available to him in law with a view to augment the quantum of duty for the benefit of the Revenue. They must act reasonably and fairly."*

19.1 The above principle applies to the present case. The appellants are entitled to the benefit of Rule 35, even though they did not specifically claim it. Extending this benefit would not amount to granting any concession outside the statute; it would merely ensure that the tax is correctly calculated in accordance with the prescribed rule.

19.2 Accordingly, the proper officer is directed to recompute the differential tax liability only on the supplies made on and after the date of lapse of the composition option by treating the declared value as cum-tax and by applying the formula prescribed under Rule 35. The revised computation shall be completed and communicated to the appellants within two weeks from the date of this order.

19.3 Any consequential liability towards interest and penalty shall also be determined afresh on the basis of the revised tax liability and in accordance with the applicable provisions of law.

20.0 The other aspect arising from Section 10(4) relates to input-tax credit. A person who has opted for the composition scheme is not entitled to avail input-tax credit during the period for which the scheme remains applicable.

21.0 It is not in dispute that, upon cessation of the composition scheme consequent upon the registered person crossing the prescribed turnover threshold, such person may become entitled to avail input-tax credit, subject to strict compliance with the conditions stipulated under Section 16 of the Act and the Rules framed thereunder. Such entitlement, however, is neither automatic nor unconditional. The burden rests upon the person claiming the credit to establish, by cogent and legally admissible material, that each of the statutory requirements governing its availment stands duly satisfied. Since no submission was advanced, nor was any specific claim urged by the appellants in this regard, we consider it inappropriate to examine the issue in the present proceedings. Accordingly, we leave the question of the appellants' entitlement to input-tax credit open, without expressing any opinion on its merits.

22.0 In view of the findings recorded hereinabove, the order of the First Appellate Authority is upheld, subject to the limited modification that the appellants shall be entitled to the benefit of cum-tax valuation in terms of Rule 35 of the Rules.

23.0 Accordingly, the impugned order is modified to the limited extent indicated in this order. The tax liability of the appellants shall be recomputed after giving effect to the cum-tax valuation under Rule 35 of the TSGST Rules, 2017, in accordance with the directions contained in paragraph 19.2 above.

The consequential liability towards interest and penalty shall also be recalculated on the basis of the revised tax liability.

24.0 On the above terms, the appeals are disposed of.

25.0 No order as to costs. Parties shall act on the authenticated record.

Digitally signed by A P RAVI
Date:20-08-2026 16:55:45 PM

Digitally signed by DUVVURI KRISHNA SRINIVAS
Date:20-08-2026 18:32:05 PM

(Duvvuri Krishna Srinivas) **(A P Ravi)**
Member (Technical) **Member (Judicial)**

Dated: 20.08.2026