



GAUTAM EXIM LIMITED

Registered and Admin Office :

Plot No. 29, Pavitra, Second Floor, Chharwada Road, Opp. Sargam Society, GIDC., Vapi-396 195, Gujrat, India. **Tel/Fax** : 91-260-2432998, 2430106 **Mob.:** 91-9512701950 **Email** : info@gautamexim.com / grrpl1850@gmail.com **CIN** : L51100GJ2005PLC046562 **Web.:** www.gautamexim.com **GSTIN** : 24AACCG7701P1ZF

Corporate office :

Ward No. 11, Near Fatehnagar Way Bridge, Dhuni, Fatehnagar - 313205, Distt. – Udaipur, Rajasthan, India **Mob.:** 91-9887003544

Date: 11.03.2026

To,
The Manager
Listing Compliance Department
BSE Limited
Phiroze Jeejeebhoy Towers
Dalal Street
Mumbai – 400001

SYMBOL: GEL

ISIN: INE721X01015

Subject: Disclosure pursuant to Regulations 30 of the Securities and Exchange Board of India Listing Obligations and Disclosure Requirements Regulations 2015 as amended "SEBI Listing Regulations")

Dear Sir,

This is to inform you that In terms of Regulation 30 (read with Part A of Schedule III) of the SEBI Listing Regulations, a meeting of the Board of Directors of the Company was held on Wednesday, 11th March 2026, at 04:00 P.M. at the registered office of the Company and was concluded at 5.00 PM inter-alia, :

1. Resignation of Akansha Motwani as the Company Secretary and Compliance officer of the company.
2. Appointment of Mr.Vishad Jaiswal (ACS-79050) as the Company Secretary and Compliance officer of the company.
3. To take note of various listing compliances under SEBI (Listing Obligations and Disclosures Requirements) Regulations 2015 along with exemption report for the quarter ended 31st December, 2025.
4. Reviewed the status of GST Matter pending before Gujarat High Court and also its future plan of action with regards to appeal or other available manner of disposal of order

Kindly acknowledge the receipt of the same.

Thanking you,
Yours faithfully,
For Gautam Exim Limited

Rajkumar Agrawal
Director
DIN:11129059

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agrawal

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March 11, 2026

To,
The Manager
Listing Compliance Department
BSE Limited
Phiroze Jeejeebhoy Towers
Dalal Street
Mumbai – 400001

SYMBOL: GEL
ISIN: INE721X01015

Sub: Outcome of Board Meeting & Disclosure under Regulations 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

Dear Sir/Madam,

Pursuant to Regulations 30 of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, we would like to inform you that the Board of Directors, at its meeting held on Wednesday, March 11, 2026 at 4:00 P.M. at the registered office of the company, inter alia, considered and approved the following:

a. Resignation of Ms. Akansha Motwani from the post of Company Secretary and Compliance Officer (Key Managerial Personnel) of the Company

The Board has accepted the resignation of Ms. Akansha Motwani as Company Secretary and Compliance Officer, with effect from the close of business hours on March 01, 2026.

b. Appointment of Mr. Vishad Jaiswal as Company Secretary & Compliance Officer (Key Managerial Personnel) of the Company.

The Board has approved the appointment of Mr. Vishad Jaiswal as Company Secretary and Compliance Officer, with effect from March 11, 2026, on the terms and conditions as per the letter of appointment.

- c. **Take note of various listing compliances under SEBI (Listing Obligations and Disclosures Requirements) Regulations 2015 along with exemption report for the quarter ended 31st December, 2025.**
- d. **Take note of statement of investor complaints and redressal status for the quarter ended 31st December, 2025.**
- e. **Reviewed the status of GST Matter pending before Gujarat High Court and also its future plan of action with regards to appeal or other available manner of disposal of order.**

The details as required under Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 read with SEBI Circular No. SEBI/HO/CFD/PoD2/CIR/P/2023/120 dated July 11, 2023 (Master Circular) read with SEBI/HO/CFD/CFD-PoD-1/P/CIR/2023/123 dated July 13, 2023 are enclosed in Annexure A.

Thanking you,
Yours faithfully,
For Gautam Exim Limited

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Rajkumar Agrawal
Director
DIN: 11129059

The meeting commenced at 04:00 P.M. and concluded at 05:00 P.M

We hereby request you to take note of the same and updated record of the Company accordingly.

This shall be uploaded on the website of the Company. You are requested to take the same on record.

Thanking you,
Yours faithfully,
For Gautam Exim Limited

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Rajkumar Agrawal
Director
DIN: 11129059

Annexure-A

Disclosure of information pursuant to Regulation 30 - Part A of Para A of Schedule III of SEBI(Listing Obligations and Disclosure Requirements) Regulations 2015

a. Resignation of Ms. Akansha Motwani as Company Secretary and Compliance Officer (Key Managerial Personnel) of the Company

S. No.	Particulars	Details
1.	Reason for change viz., ~~appointment, resignation, removal, death or otherwise~~	Ms. Akansha Motwani has tendered her resignation from the position of Company Secretary, Compliance Officer(Key Managerial Personnel)of The Company, due to unavoidable circumstances.
2.	Date of ~~Appointment/~~ Cessation (as applicable) ~~and term of appointment~~	Ms. Akansha Motwani will be relieved from her responsibilities with effect from close of business hours on 01 st March, 2026.
3.	Brief profile(in case of appointment)	Not applicable
4.	Disclosure of relationships between directors(in case of appointment of a director)	Not applicable
5.	Letter of Resignation along with detailed reason for resignation	Enclosed. There are no material reasons for her resignation other than those mentioned in the resignation letter.

b. AppointmentofMr.VishadJaiswalasCompanySecretary&ComplianceOfficer(Key Managerial Personnel) of the Company.

S. No.	Particulars	Details
1.	Reason for change viz., ~~appointment, resignation, removal, death or otherwise~~	Appointment of Mr. Vishad Jaiswal, a qualified Company Secretary (Membership. No. A79050) as Company Secretary and Compliance Officer designated as Key Managerial Personnel of the Company.
2.	Date of Appointment/ ~~Cessation (as applicable)~~ -and term of appointment	With effect from March 11, 2026 Term of appointment: Appointment of Mr. Vishad Jaiswal (Membership. No. A79050) as a

		Company Secretary & Compliance Officer (Key Managerial personnel) of the Company with effect From March 11,2026.
3.	Brief profile(in case of appointment)	Mr. Vishad Jaiswal is a qualified Company Secretary from the Institute of Company Secretaries of India (Membership No. A79050) holding a Bachelor's degree in Commerce (Honours) from the Devi Ahilya University, Indore M.P.. He has comprehensive experience in corporate governance, legal compliance, secretarial services, and regulatory affairs.
4.	Disclosure of relationships between directors(in case of appointment of a director)	Mr. Vishad Jaiswal is not related to any Director of the Company

e. Reviewed the status of GST Matter pending before Gujarat High Court:

The Chairman informed the Board that a order has been served to the company by GST Department via **SURAT/GST/SK/07/2025-26**, Gujarat demanding a tax figure of Rs. Rs. **12,38,96,621/-** (Twelve Crore Thirty Eight Lacs Ninety Six Thousand Six hundred and twenty one only) which is totally unacceptable by the company as its has presented all the necessary docs as required y the officials.

However in against to that order, company has filed a petition in Gujarat High Court and is under review at present.

Thanking you,
Yours faithfully,
For Gautam Exim Limited

raj kumar
agrawal

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Rajkumar Agrawal
Director
DIN: 11129059

 सत्यमेव जयते	
केन्द्रीय जीएसटी एवं केन्द्रीय उत्पाद शुल्क आयुक्तालय: सूरत CENTRAL GST & CENTRAL EXCISE, COMMISSIONERATE: SURAT केन्द्रीय उत्पाद शुल्क भवन, चौक बाजार, सूरत-395001 CENTRAL EXCISE BUILDING, CHOWK BAZAR, SURAT-395001 Email Id: cgstsurat-adj-adc2@gov.in	
फाईलसंख्या / File No. ADJ/GST/789/2025-ADJN-O/o COMMR-	CBIC DIN: 20251265VC0000444B08
मूलआदेशसंख्या Order in Original No.	SURAT/GST/SK/07/2025-26 Dated: .11.2025
कारण बताओ नोटिस संख्या एवं दिनांक Show Cause Notice No. & Date.	DGGI/SZU/36-82/2025-26/Gr-07 dated 20.06.2025
PASSED BY : Sandeep Kamboj, IRS Joint Commissioner, CGST & CE, Surat Commissionerate	
ISSUED TO:	
1.M/s. Gautam Exim Limited (GSTIN-24AACCG7701P1ZF) 2 nd Floor, Plot No. 29, Pavitra, Chharwada Road, GIDC, Vapi, Shri Ghatkopar Sweet & Farsan, Opp. Sargam Society, Vapi, Valsad, Gujarat, 396195	
2. M/s. Jay Bharat Metcast Pvt. Ltd., (GSTIN: 24AACCJ8923A1ZX) Survey No 57/2, Village Morai, Vapi, TA Pardi, Valsad, Gujarat, 396195	
3. M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6) 1 st , A1 204, Yogi Hills, Silvassa Amli, Silvassa, Dadra and Nagar Haveli and Daman and Diu, 396230	
4. M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW) Ground Floor, A/3-104, Bramand Complex, Amli Dayat Falia, Silvassa, Dadra and Nagar Haveli and Daman and Diu, 396230	
5. M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX) Shop No. 10 Ground Floor, KP Vihar, opp. Essar Petrol Pump, Dadra, Dadra and Nagar Haveli 396193	
6. M/s Vandana Enterprises (GSTIN-24AGCPJ7828F1ZI) Opp. Jalaram Guest House, Survey No 466 Palkee Plot No. 04, Manglam Colony, Silvassa Road Dungra, Vapi, Valsad, Gujarat, 396195	

व्यक्ति (यो) को, जिसको (जिनके) लिए यह आदेश जारी किया गया है, उसके (उनके) व्यक्तिगत उपयोग के लिए निशुल्क प्रदान की जाती है!

This copy is granted free of charge for private use of the person(s) to whom it is sent.

यदि कोई व्यक्ति इस आदेश से स्वयंको असंतुष्ट अनुभव करता है, तो वह इस आदेश के विरुद्ध आयुक्त (अपील), केंद्रीय जीएसटी, तीसरीमंजिल, मेगनसटावर, अलथान, सूरत को प्रारूप GST-APL-01 में अपील कर सकता है। उक्त अपील पक्षकार पर आदेश तामील होने अथवा उसे डाकद्वारा प्राप्त करने की तारीख से तीन माह के भीतर दाखिल की जानी चाहिए।

Any person deeming himself aggrieved by this Order may appeal against this order in form "GST-APL-01" to the Commissioner (Appeals), 3rd Floor, Magnus Tower, Althan, Surat within three months from date of its communication.

उक्त अपील को दो प्रतियों में प्रारूप GST-APL-01 में दाखिल की जानी चाहिए। इसे अपील कर्ताओं द्वारा सीजीएसटी अधिनियम, 2017 की धारा 107 के प्रावधानों के अनुसार दायर किया जाना चाहिए। इसके साथ निम्नलिखित को संलग्न किया जाए: उक्त अपील की प्रति।

The Appeal should be filed in GST Form No. APL-01 in duplicate. It should be filed by the appellants in accordance with provisions of Section 107 of the CGST Act, 2017. It shall be accompanied with the following: Copy of the aforesaid appeal.

निर्णय की दो प्रतियां (उसमें से एक उस आदेश की प्रमाणित प्रतिलिपि होनी चाहिए जिसके विरुद्ध अपील की गयी है) अथवा उक्त आदेश की अन्य प्रति जिस पर रु. 2.00 - का न्यायलय शुल्क टिकट अवश्य लगा होना चाहिए।

Copies of the Decision (one of which at least shall be certified copy of the order appealed against) or copy of the said Order bearing a court fee stamp of Rs. 2.00.

इस आदेश के विरुद्ध आयुक्त (अपील) में शुल्क के 10% जहाँ शुल्क एवं जुर्माना का विवाद है अथवा जुर्माना जहाँ सिर्फ जुर्माना का विवाद है अथवा जुर्माना जहाँ सिर्फ जुर्माना के बारे में विवाद है उसका भुगतान करके अपील की जा सकती है।

An appeal against this order shall lie before the Commissioner (Appeal) on payment of 10% of the duty/tax demanded where tax/duty or tax and penalty are in dispute, or penalty, where penalty alone is in dispute"

Brief facts of the case

A Show Cause Notice bearing No. DGGI/SZU/36-82/2025-26/Gr-07 dated 20.06.2025 was issued by the Additional Director, DGGI, SZU, Surat to M/s. Gautam Exim Limited, 2nd Floor, Plot No. 29, Pavitra, Chharwada Road, GIDC, Vapi, Shri Ghatkopar Sweet & Farsan, Opp. Sargam Society, Vapi, Valsad, Gujarat, 396195, a Public Limited Company registered under GST having GSTIN-24AACCG7701P1ZF under the GST Act, 2017 for supply of taxable goods falling under the HSN code 4707. M/s. Gautam Exim Limited Vapi are availing Input Tax Credit in terms of CGST Act, 2017 / SGST/UTGST Act, 2017 (as amended) and utilizing the same for payment of GST.

2. Intelligence: -

2.1 An intelligence was gathered and further developed by the officers of Directorate General of Goods and Services Tax Intelligence, Surat Zonal Unit ('DGGI, Surat' in short) that M/s. Gautam Exim Limited is registered under GST having GSTIN-24AACCG7701P1Z and engaged into trading, import/export of recyclable paper fibre/pulp. However, it was noticed that they had passed on ITC to firm M/s. Jay Bharat Metcast Pvt. Ltd., Vapi, a supplier of steel and TMT bars (sariya). Further, analysis of M/s. Gautam Exim Limited suppliers revealed that four suppliers viz. M/s Ganpati Traders, Silvassa; M/s Krishna Industries, Silvassa; M/s Raghav Industries, Silvassa and M/s Manish Scrap Traders, Vapi had supplied ferrous scrap to M/s. Gautam Exim Limited, Vapi. Therefore, it appeared that, M/s. Gautam Exim Limited, Vapi had procured fake invoices from these suppliers in violation of the provisions of the CGST/SGST/UTGST Act, 2017 and the rules made thereunder, leading to wrongful availment and utilization of fake ITC and further passed on fake ITC to M/s. Jay Bharat Metcast Pvt. Ltd., Vapi. Further, investigation in respect of M/s Manish Scrap Traders, Vapi, was being conducted by CGST and Central Excise Surat.

3. Scope of Investigation: -

The Show Cause Notice No. DGGI/SZU/36-82/2025-26/Gr-07 dated 20.06.2025 is limited to fake and fraudulent Input Tax Credit availed and utilized by M/s. Gautam Exim Limited, Vapi; M/s. Jay Bharat Metcast Pvt. Ltd, Vapi and M/s Vandana Enterprises, Vapi on the basis of invoices issued by M/s Ganpati Traders, Silvassa, M/s Krishna Industries, Silvassa, M/s Raghav Industries, Silvassa without actual receipt of any goods and/or services; fake and fraudulent Input Tax Credit availed and passed on by M/s Ganpati Traders, Silvassa; M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa, without actual receipt/supply of any goods and/or services. The period covered under the investigation is from April, 2018 to August, 2023.

Remaining fake and fraudulent ITC recipients of M/s Ganpati Traders, Silvassa and M/s Raghav Industries, Silvassa were transferred to the jurisdictional CGST Commissionerate for inquiry against them. Further, remaining fake and fraudulent ITC suppliers of M/s Raghav Industries, Silvassa, which are still active/cancelled on taxpayer application /cancelled due to non-filing of GST returns for more than 6 months, were also transferred to the jurisdictional CGST Commissionerate for inquiry against them.

4. Search/Inspection and statements: -

4.1 Acting upon the intelligence, the officers of DGGI, Surat carried out simultaneous searches under Section 67(2) of the CGST Act, 2017 at the registered premises of M/s. Gautam Exim Limited, Vapi; M/s. Jay Bharat Metcast Pvt. Ltd., Vapi as well as registered premises of suppliers namely M/s Ganpati Traders, Silvassa; M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa.

4.2 During the course of search at the registered premises of M/s. Gautam Exim Limited, Vapi, C 7 57 58 59, 1st floor, Vapi, Valsad 396195, it was noticed that the registered premises is office premise of M/s. Gautam Exim Limited, Vapi. During the search, Shri Raman Balasubramanian, Director of M/s Gautam Exim Limited, Vapi has stated that a search dated 22.10.2020 has already been conducted by CGST and Central Excise, Surat and submitted a copy of panchanama dated 22.10.2020 drawn by the officers of CGST and Central Excise, Surat. Accordingly, a panchanama dated 25.11.2020 was drawn.

4 . 3 Summonses dated 10.04.2023 & 13.04.2023 were issued to M/s Gautam Exim Limited, Vapi for recording of statement at DGGI, Surat office however no one turned up for statement.

4.4 Statement dated 29.01.2025 of Shri Raman Balasubramanian, Managing Director of M/s Gautam Exim Limited, (GSTIN 24AACCG7701P1ZF), Vapi.

Statement dated 29.01.2025 of Shri Raman Balasubramanian, Managing Director of M/s Gautam Exim Limited, Vapi had been recorded under Section 70 of the CGST Act, 2017, wherein he interalia stated that: -

- M/s Gautam Exim Limited, Vapi was engaged in the trading of paper scrap since 2000 and M.S. metal scrap since the year 2010. He looked after day-to-day activities of the company.
- The primary source for procuring waste paper was import. The sell of waste paper is on high sea sell basis to their clients/customers. Additionally, they purchase M.S. metal scrap from local vendors and subsequently sell it to their customers, on a "Bill to" and "Ship to" basis. Prior to 2010, their firm operated as a proprietorship under the name M/s Gautam Enterprise; from 2010 to 2017, it was structured as a Private Limited Company, and after that they transitioned into a Limited Company. They didn't have any Godown or any storage facilities as their imported paper scrap was being sold on the high sea sell basis and locally purchased metal scrap was sold on "Bill to" and "Ship to" basis.
- They sold their paper scrap to almost 12-15 paper mills located in Gujarat, but their major recipients of paper scrap were M/s Shah Paper Mills, Vapi, M/s Shah Pulp & Paper Mills, Vapi, M/s Gajanand Paper Mills, Vapi and M/s Akshat Paper Mills, Bardoli, Surat.
- They purchased Metal Scrap from many local firms, such as M/s Raghav Industries, Silvassa, M/s Krishna Industries, Silvassa, M/s Ganpati Traders, Silvassa and M/s Manish Scrap, Vapi etc. and sold it to only M/s Jay Bharat Metcast Pvt. Ltd., Vapi.
- On being asked about Shri Durgesh Paneri, proprietor of M/s Ganpati Traders, Silvassa, Shri Pawan Kumar Prabhudayal Pareek, proprietor of M/s Krishna Industries, Silvassa and Shri Niranjana Khubchand Sharma, proprietor of M/s Raghav Industries, Silvassa, Shri Raman Balasubramanian stated that he personally didn't know Shri Durgesh Paneri, Shri Pawan Kumar Prabhudayal Pareek and Shri Niranjana Khubchand Sharma. 32.0144
- On being asked about M/s Ganpati Traders, Silvassa which was found in non-existent at its registered premises 1st, A1 204, Yogi Hills, Silvassa Amli, Silvassa, Dadra and Nagar Haveli and Daman and Diu, 396230, Shri Raman Balasubramanian has stated that he cannot say anything about this.

4 . 5 During the course of search at the registered premises of M/s Jay Bharat Metacast Pvt. Ltd. Survey No 57/2, Vapi, Village Morai, Vapi, Ta Pardi, Valsad, Gujarat, 396195, Shri Shubham Joshi, account head of M/s Jay Bharat Metacast Pvt. Ltd. Vapi stated that they were engaged in manufacturing of TMT bars for Kamdhenu TMT bars and for manufacturing of TMT bars the raw material i.e. metal scrap are procured by import and by purchasing from local dealers. He further stated that a search dated 22/23.10.2020 was already conducted by the CGST and Central Excise, Surat Commissionerate and submitted copy of panchanama and INS-02 dated 22/23.10.2020. Accordingly, a panchanama dated 25.11.2020 was drawn.

4.5.1 Summonses dated 10.04.2023, 13.04.2023 and 30.01.2025 were issued to M/s Jay Bharat Metacast Pvt. Ltd., Vapi for recording statement at DGGI, Surat office however no one turned up for statement.

4.5.2 Statement of Shri Nitesh Mukeshbhai Thakur, Director of M/s Jay Bharat Metacast Pvt. Ltd., Vapi (GSTIN- 24AACCJ8923A1ZX).

In response to summons dated 20.02.2025, Shri Nitesh Mukeshbhai Thakur, Director of M/s Jay Bharat Metacast Pvt. Ltd., Vapi turned up at DGGI, Surat office and his statement dated 04.03.2025 has been recorded under Section 70 of the CGST Act, 2017, wherein he interalia stated that:

- M/s Jay Bharat Metacast Pvt. Ltd., Vapi was engaged in the manufacturing of epoxy coated TMT bars since 2013. Currently there were two more directors, his father Shri Mukesh Singh Thakur and his uncle Shri Bimlendra Kumar, in the company. He looked after day-to-day activities of the company.
- Up to 2017 they mostly purchased M. S. Scarp from overseas suppliers. After that they reduced their purchase from overseas suppliers and shifted to local vendors directly and they also purchased some M. S. metal scrap on a "Bill to" and "Ship to" basis from M/s Gautam Exim Limited, Vapi.
- On being asked about Shri Durgesh Paneri, proprietor of M/s Ganpati Traders, Silvassa, Shri Pawan Kumar Prabhudayal Pareek, proprietor of M/s Krishna Industries, Silvassa and Shri Niranjana Khubchand Sharma, proprietor of M/s Raghav Industries, Silvassa, Shri Nitesh Mukeshbhai Thakur has stated that he don't know about them personally, but they have purchased scrape from M/s Gautam Exim Limited, Vapi and M/s Gautam Exim Limited, Vapi has purchased scrap from these suppliers and supplied to them on a "Bill to" and "Ship to" basis and sometimes they have purchased scrap directly from these suppliers.
- On being asked about the M/s Ganpati Traders, Silvassa which was found non-existent at its registered premises 1st, A1 204, Yogi Hills, Silvassa Amli, Silvassa, Dadra and Nagar Haveli and Daman and Diu, 396230, Shri Nitesh Mukeshbhai Thakur has stated that he cannot say anything about this.
- As M/s Ganpati Traders, Silvassa found non-existent during the visit made by DGGI on 25.11.2020 at its said registered premises, therefore, it seems that no supply has been made by M/s Ganpati Traders, Silvassa and only invoices have been issued, hence ITC availed on the strength of invoices

issued by M/s Ganpati Traders, Silvassa is ineligible to you. In response, Shri Nitesh Mukeshbhai Thakur has stated that they have purchased metal scrap from M/s Ganpati Traders, Silvassa and paid the amount accordingly in their bank accounts.

5. Verification of suppliers of M/s Gautam Exim Limited, Vapi and M/s Jay Bharat Metcast Pvt. Ltd., Vapi: -

5.1 Search at the registered premises of M/s Ganpati Traders, Silvassa: -

5.1.1 A search was conducted on 25.11.2020 at the registered premise of M/s Ganpati Traders, Silvassa. During the search proceedings, it was noticed that the premises was a residential premises and Mrs. Sujata Nitin Ingle was living there with her family. Further, on being asked about M/s Ganpati Traders, Silvassa or its proprietor Shri Durgesh Paneri, Mrs. Sujata Nitin Ingle had stated that she did not know anything about M/s Ganpati Traders, Silvassa or its proprietor Shri Durgesh Paneri. She also informed that an inquiry / search about M/s Ganpati Traders, Silvassa had already been conducted at the said premises on 22.10.2020 by CGST and Central Excise, Daman and submitted the copy of panchnama dated 22.10.2020. During search, no business activities had been noticed and no documents related to M/s Ganpati Traders, Silvassa had been found from the premises.

5.1.2 On going through the panchnama dated 22.10.2020 drawn by the CGST & CE, Daman it had been noticed that Shri Nitin Abarao Ingle was the owner of the Flat No. A1/204, 1st Yogi Hills, Amli, Silvassa and living there since January, 2020. Mrs. Sujata Nitin Ingle and her husband Shri Nitin Ingle didn't know anything about M/s Ganpati Traders, Silvassa or its proprietor Shri Durgesh Paneri. During search, no business activities were noticed and no documents related to M/s Ganpati Traders, Silvassa had been found from the premises.

5.1.3 Further, summonses dated 10.04.2023 and 13.01.2025 were issued at its registered premises for recording statement, but no one turned up and both the summonses were returned undelivered with the postal remark "Left". After that summons dated 30.01.2025 was issued at the following address available in AIO, BO and all the summonses were sent through registered post as well as on registered e-mail ID of the M/s Ganpati Traders, Silvassa.

Sr. No.	Address	Remark
1	Srv No 66 1, Shop No 161, Center Point, Silvassa Vapi Road, Silvassa, Dadra and Nagar Haveli and Daman and Diu, 396230	Returned with remark "Left"
2	Shop No.04, Opp. Tighara Garden, Tighara, U.T. of Dadra and Nagar Haveli Daman and Diu 396193	Returned with remark "Left"
3	Shri Durgesh Paneri S/o Hari Mohan Panari, 105 Dwrika Colony, Bhilwara, Rajasthan-311001	No response has received

5.1.4 In view of the above, it appeared that the firm M/s Ganpati Traders, Silvassa is a non-existent firm at its principal place of business, and it was created fraudulently to avail and pass on fake and bogus ITC on the basis of paper

transaction, without receipt/supply of any goods and/or services.

5.2 Search at the registered premises of M/s. Krishna Industries, Silvassa: -

5.2.1 An authorization for search dated 24.11.2020 was issued to search the registered premises of M/s. Krishna Industries (GSTIN-26ALEPP9431H1ZW), Ground Floor, A/3-104, Bramand Complex, Amli Dayat Falia, Silvassa, Dadra and Nagar Haveli and Daman and Diu, 396230. Accordingly, a team of DGGI, Surat, visited Bramand Complex, Amli Dayat Falia, Silvassa on 25.11.2020. During the visit it was noticed that Bramand Complex has 4 blocks from A1 to A4 with 6 shops in each block, from A/1-1 to A4-24 and on further inquiry from neighbour it came to notice that no firm having name M/s. Krishna Industries, Silvassa existed in Bramand Complex.

5.2.2 Further, a summons dated 10.04.2023 was issued to Shri Pawan Kumar Prabhudayal Pareek for recording statement. In response, Shri Pawan Kumar Prabhudayal Pareek turned up and his statement dated 17.04.2023 was recorded under Section 70 of the CGST Act, 2017, wherein he inter alia stated that: -

- M/s. Krishna Industries, Silvassa was a proprietorship firm and he was the proprietor of the firm.
- All the work related to sell-purchase, accounting, marketing and finance were being handled by him only.
- They had sold their scrap to only M/s Gautam Exim Limited, Vapi and M/s Jay Bharat Metcast Pvt. Ltd., Vapi.
- They had used the local tempo for transportation of supply of goods and paid them in cash only.

Further, summonses dated 13.01.2025 & 30.01.2025 were issued at its registered PPOB for recording statement, but no one turned up for statement.

5.3 Search at the registered premises of M/s Raghav Industries, Silvassa: -

A search was conducted on 25.11.2020 at the registered premises of M/s Raghav Industries (GSTIN-26BQWPS1030B1ZX), Shop No. 10, KP Vihar, opp. Essar Petrol Pump, Dadra, Dadra and Nagar Haveli 396193. During the search, the shop was found closed. On being inquired with neighbours, a person Shri Ranjeet Kumar, manager of M/s Aaditya Developers opened the said shop. On opening the shop, it was noticed that some interior work was under process and no documents were available there and no business activity was noticed there. Further, on being called on mobile number of Shri Niranjana Khubchand Sharma, available on GST portal, he informed that he was out of town and informed that DGGI, RU Vapi had already conducted a search dated 09.11.2020 and seized some documents under dated panchnama/INS-02.

Ongoing through the panchnama dated 09.11.2020, it had been noticed that officer of DGGI, RU Vapi had visited the registered premises of M/s Raghav Industries, Shop No 5, Ground Floor, Shilpam Apartment, Near Gayatri Mandir, Silvassa, Dadra & Nagar Haveli. On reaching the premises it had been noticed that a shop of curtains, sofa cover, wallpaper etc. was operational from the said premises. On being inquired about M/s Raghav Industries, Silvassa and its proprietor Shri Niranjana Khubchand Sharma, a person available there informed that he was not aware of M/s Raghav Industries or its proprietor and he was

engaged in trading and repairing of sofa, curtains etc. from the premises for last one year and the said premises did not belong to M/s Raghav Industries, Silvassa. Further, on being contacted to Shri Niranjn Khubchand Sharma on his mobile phone available on GST portal, he informed that his present office address was Shop No. 10, KP Vihar, Survey No. 400/1, opp. Essar Petrol Pump, Dadra, Dadra and Nagar Haveli 396193, but till now he had not changed the address on GST portal. After that the officers reached Shop No. 10, KP Vihar, Survey No. 400/1, opp. Essar Petrol Pump, Dadra, Dadra and Nagar Haveli 396193 and found that the said premises was a shop and some books, files and records were there. Shri Niranjn Khubchand Sharma was available there and informed that they are engaged in trading M.S. scrap. Further, on being asked about the stock, he informed that they did not have any stock because they purchased scrap only when they get order from their customers. After receiving order, they purchase M.S. scrap from Surat and sell it directly to their customers.

Summonses dated 10.04.2023, 13.01.2025, 30.01.2025 and 20.02.2025 were issued at its all-available address for recording statement, but neither anyone turned up for statement nor any response had been received.

6. Investigation: -

6.1 The purchase invoices seized under INS-02 dated 25.11.2020 during the search proceedings at M/s Gautam Exim Limited, Vapi and M/s Jay Bharat Metcast Pvt. Ltd., Vapi in respect of M/s Ganpati Traders, Silvassa, M/s. Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa were scrutinized. On scrutiny of seized documents, it had been noticed that all the suppliers had used only two transporters named M/s R. D. Logistics, Silvassa and M/s Jay Shree Gopal Roadlines, Vapi. Accordingly, summonses were issued to both the transporters for submission of relevant document/records and for recording their statements.

6.1.1 Inquiry from M/s. R. D. Logistics, Silvassa, in relation to M/s Ganpati Traders, Silvassa, M/s Krishna Industries, Silvassa & M/s Raghav Industries, Silvassa: -

On going through lorry receipt of M/s. R D Logistics, Silvassa, it had been noticed that the address of transporter was R. D. Logistics, Fleet Owner & Transport Contractor, Opp. Dadra Garden, Vapi- Silvassa, Tighra Dadra 396193". Accordingly, summons dated 20.02.2025 was issued to tender statement, however the said summons was returned undelivered with postal remarks "incomplete address".

Further, a PAN number 'CZLPS6034G' was mentioned on the said lorry receipts. On going through GST Portal, it had been noticed that the said PAN is registered under the GST law with GSTIN: 26CZLPS6034G1Z1 Legal Name M/s Nisha Industries (Prop. Shir Hemant Rishikesh Sharma) having address at gala No. 112, factory No. 354/2, 66 KV Industrial Estate, Pipariya, Silvassa, Dadra and Nagar Haveli and Daman and Diu, 396230 registered on 25.10.2017 under HSN 4015, 9020, 3926,8424 & 6403 and not registered as goods transport agency and the registration was cancelled suo-moto on 24.09.2019. Accordingly, summons dated 15.04.2025 & 23.04.2025 were issued to tender statement and to submit relevant transportation documents, but both the summonses were returned undelivered with the remarks "Left".

6.1.2 Inquiry from M/s Jay Shree Gopal Roadlines, Vapi, in relation to M/s Ganpati Traders, Silvassa, M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa: -

On going through lorry receipt of M/s Jay Shree Gopal Roadlines, Vapi, it had been noticed that the address of transporter was Jay Shree Gopal Roadlines, Fleet Owner & Transport Contractor, Sonam Complex, Near Vapi Char Rasta Vapi. Accordingly, summonses dated 15.04.2025 and 23.04.2025 were issued to tender statement and to submit relevant transportation documents, however the said summonses were returned undelivered with the remarks "insufficient address"

Further, a GST number was also mentioned on the said lorry receipts having GSTIN- 24AUVPA7453J1Z9 in name of M/s Jayshree Gopal Roadlines (Proprietor Shri Madhubhai Rukhadbhai Ajara) having address at 1st floor, Plot No 67/A, Sitaram Nagar Society, Puna to Bombay Market Road, Surat, Gujarat, 395010. M/s Jayshree Gopal Roadlines was registered under GST on 23.08.2017 and the registration was cancelled on application of taxpayer 01.11.2017. Accordingly, summonses dated 15.04.2025 and 23.04.2025 were issued to tender statement and to submit the relevant documents, but both the summonses were returned undelivered with the postal remarks "Left".

The address indicated on the lorry receipt of M/s Jayshree Gopal Roadlines was incomplete, and the GST number did not correspond to M/s. Jayshree Gopal Roadlines. Furthermore, according to the lorry receipt, the address of M/s. Jayshree Gopal Roadlines was in Silvassa, whereas the address associated with the GST number was in Surat. Also summons issued at both addresses were returned undelivered with the remarks "insufficient address" and "Left". Therefore, it was evident that M/s. Jayshree Gopal Roadlines is a fraudulent entity.

6.2 Scrutiny of records pertaining to the suppliers of M/s Gautam Exim Limited, Vapi and M/s Jay Bharat Metcast Pvt. Ltd., Vapi: -

6.2.1 Scrutiny of records/returns pertaining to M/s Ganpati Traders, Silvassa: -

Scrutiny of GSTR-1s of M/s Ganpati Traders, Silvassa filed for the period of Sept-2019 to Dec-2020, revealed that M/s Ganpati Traders, Silvassa filed monthly GSTR-1s and declared outward taxable supply of the goods to the tune of Rs. 9,27,78,381/- and self-assessed GST liability of Rs. 1,67,00,109/- (IGST) in their GSTR-1 returns for the said period and discharged tax liability of Rs. 1,67,00,102/- (Out of which Rs. 1,66,47,947/- through Electronic Credit Ledger and Rs. 52,155/- through Cash Ledger) by way of filing GSTR-3B returns. Summary of GSTR-1s filed and ITC passed on by M/s Ganpati Traders, Silvassa is as follows: -

GSTIN of recipient	Name of recipient	Total taxable value	Total ITC involved
24AACCG7701P1ZF	Gautam Exim Limited, Vapi	85869033	15456426
24AACCG7701P1ZF	Jay Bharat Metcast Pvt. Ltd., Vapi	5306311	955136
24EKLPS7063G1ZQ	Sahil Enterprises, Vapi	1603037	288547
Total		9,27,78,381	1,67,00,109

During the period, M/s. Ganpati Traders, Silvassa, had availed the ITC amounting to Rs. 1,77,85,742/- on the basis of invoices issued by 09 different suppliers. Out of these 09 suppliers 07 suppliers were found fake on the visit made by the officers and dated visit notes/panchnama/statements of concerned person were recorded. As M/s Ganpati Traders, Silvassa itself is a non-existent firm and created with the sole purpose of availing and passing on fake ITC, the ITC passed on by these firms is also not eligible to M/s Ganpati Traders, Silvassa. The summary of the visits made are as under: - -

TABLE-A

Sr. No.	GSTIN of supplier	Name of Supplier	Remarks
1	24BMSPR4008 Q1ZB	Magnus Metals	A visit dated 25.06.2020 was made at the registered premises of M/s Magnus Metals by the officers of CGST & C Ex Surat Comm'te. During the visit it has been noticed that the premises is a two-storey building owned by Shri Ramanand Badri and he was living there for 25 years. On being asked about M/s Magnus Metals or its prop. Shri Rambharose Ramkishor Rajbhar, Shri Ramanand Badri stated that they do not know anything about M/s Magnus Metals or its proprietor.
2	24BPTPG3529 K1ZJ	Metro Metals	A visit dated 25.06.2020 was made at the registered premises of M/s Metro Metals by the officers of CGST & C Ex Surat Comm'te. During the visit it has been noticed that the premises is a one-storey residential bungalow and found locked. On being inquired by the neighbour it come to know that the building was closed for one year and the building was sealed by the bank. On being asked by M/s Metro Metals or its prop Shri Ramkishan Ghanshyambhai Gondaliya, they have stated that they do not know anything about M/s Metro Metals or its proprietor.
3	24BVBP1870 Q1Z6	Jalak Enterprise	A visit dated 25.06.2020 was made at the registered premises of M/s Jalak Enterprise by the officers of CGST & C Ex Surat Comm'te. During the visit it has been noticed that the premises is a residential building and Shri Ravinder Chhagan Solnki was living there. On being asked about M/s Jalak Enterprise he stated that no firm in name of M/s Jalak Enterprise is operational at the premises.
4	24BXZPS8862 D1ZM	Smit Enterprise	A visit dated 25.06.2020 was made at the registered premises of M/s Smit Enterprise by the officers of CGST & C Ex Surat Comm'te. During the visit it has been noticed that the premises is a residential building and owned by Smt. Pinjari Bilkish B. Jabbar. On being asked about M/s Smit Enterprise or its prop Shri Mohd Asif Shaikh she stated that she

			doesn't know anything about M/s Smit Enterprise or its proprietor.
5	24DYJPK3419 P1ZY	Shree Balaji Enterprise	A visit dated 12.04.2023 was made at the registered premises of M/s Shree Balaji Enterprise by the officers of DGGI, Surat. During the visit it has been noticed that none of shop was opened as SMC has ordered to close all the shops. Further, on being inquired from nearby persons about M/s Shree Balaji Enterprise or its prop Shri Kaushik Shambhubhai Kanani no one was aware about M/s Shree Balaji Enterprise or its proprietor.
6	24EHJPM8399 N1Z9	Mahadev Trading	A visit dated 26.08.2021 was made at the registered premises of M/s Mahadev Trading by the officers of CGST & CEx Surat Comm'te. During the visit the said address was not found. Efforts were made to locate the said premises and M/s Mahadev Trading or its prop Shri Hardik Ishwarbhai Mangukiya from the neighbours, but they did not find the address as well as the firm or its proprietor.
7	24FYRPD6454 B1ZF	Prime Metals	A visit dated 25.06.2020 was made at the registered premises of M/s Prime Metals by the officers of CGST & CEx Surat Comm'te. During the visit it has been noticed that the premises is a commercial shop which is a consumer service point of Bank of Baroda. The said premises is rented by Shri Dhamecha Arvind. On being asked about M/s Prime Matels or its prop Shri Mohd Hardik Jivrajbhai Dangodara he stated that he doesn't know anything about M/s Prime Metals or its proprietor.

The financial year wise summary of GSTR-1s and GSTR-3Bs filed and ITC passed on availed by M/s Ganpati Traders, Silvassa, are as under: -

F. Y	ITC passed on in GSTR-1	ITC availed in GSTR-3B
	IGST	IGST
2019-20	15456426	16625628
2020-21	1243683	1216436
Total	16700109	17842064

6.2.2 Scrutiny of records/returns pertaining to M/s Krishna Industries, Silvassa:

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Scrutiny of GSTR-1s of M/s Krishna Industries, Silvassa revealed that they filed GSTR-1s for the period of Feb-2019 to April-2021 however they filed NIL GSTR-1 after October-2019 and declared outward taxable value of supply of the goods to the tune of Rs. 12,52,15,514 /- and self-assessed GST liability of Rs.

2,25,38,794/- (IGST- Rs. 1,95,30,830/- + CGST - Rs. 15,03,982/- + SGST/UTGST- Rs. 15,03,982/-) in their GSTR-1s for the said period and discharged tax liability of Rs. 2,25,38,808/- (Rs. 2,24,36,222/- through Electronic Credit Ledger and Rs. 1,02,586/- through Electronic Cash Ledger) by way of filing GSTR-3B returns. Summary of GSTR-1s filed and ITC passed on is as follows: -

GSTIN of recipient	Name of recipient	Total taxable value	Total ITC involved
24AACCG7701P1ZF	Gautam Exim Limited, Vapi	84250186	15165034
24AACCCJ8923A1ZX	Jay Bharat Metcast Pvt Ltd, Vapi	22154423	3987796
24AGCPJ7828F1ZI	Vandana Enterprises, Vapi	2100000	378000
26ADZPJ5670K1ZQ	Vandana Industries, Dadra	16710905	3007964 *
Total		12,52,15,514	2,25,38,794

* In response to summons dated 15.04.2025, M/s Vandana Industries, Dadra vide letter dated 18.04.2025 submitted that they had reversed the ITC availed on the basis of invoices issued by M/s. Krishna Industries, Silvassa, alongwith applicable interest and penalty. In this regard, they also submitted copy of closure letter 28.12.2022 issued by Deputy Commissioner (Prev.) CGST & CE, Daman.

During the period, M/s. Krishna Industries, Silvassa, had availed the ITC amounting to Rs. 2,24,34,766/- on the basis of invoices issued by 10 different suppliers. Out of these 10 suppliers 09 suppliers were found fake on the visit made by the officers and dated visit notes/panchnama/statements of concerned person were recorded. The summary of the visits made are as under: -

TABLE-B

Sr. No.	GSTIN of supplier	Name of Supplier	Remarks
1	24BJVPM9693Q1ZQ	Super Steel	Statement dated 14.09.2019 of Shri Abdulgani Abdulgafar Meman Prop. of M/s Super Steel was recorded by officer of DGGI, Surat, wherein he has stated that even though the firm is opened in his name but he has not opened any GST firm.
2	24AFHPL9305B1ZT	Star Traders	A search dated 09.01.2020 was made at the registered premises of M/s Star Traders by the officers of DGGI, Surat. During the search it has been noticed that the premises

			is a residential premises and Shri Abhubhai Jasubbhai Lakhani was living there with his family. On being asked about M/s Star Traders or its proprietor Shri Mohmedhusen Rajakbhai Lodha he stated that he doesn't know anything about M/s Star Traders or its proprietor.
3	24JHZPS1147D1ZV	Maru Traders	A search dated 24.01.2020 was made at the registered premises of M/s Maru Traders by the officers of DGGI, Surat. During the search it has been noticed that the premises is a residential premises and Shri Shaikh Mohammad Shehjad Miyanmohammad was living there with his family. On being asked about M/s Maru Traders he stated that he doesn't know anything about M/s Maru Traders and during the search no incriminating documents related to M/s Maru Traders, or any business activities were noticed at the said premise.
4	24BXZPS8862D1ZM	Smit Enterprise	As detailed in Table-A.
5	24BWCPM7939R1ZO	M J Enterprise	A search dated 09.01.2020 was made at the registered premises of M/s M J Enterprise by the officers of DGGI, Surat. During the search it has been noticed that the premises is a residential premises and Shri Mali Rahul Sanjaybhai was living there with his family. On being asked about M/s M J Enterprise and its proprietor Shri Mahajan Rajendra Sanjay he stated that he doesn't know anything about M/s M J Enterprise, but Shri Mahajan Rajendra Sanjay is his younger brother, and he is a tempo driver. During the search no incriminating documents related to M/s M J Enterprise, or any business activities were noticed at the said premise.
6	24DNUPP1400D1Z8	G.H. International	Cancelled due to non-filing of GST returns for more than 6 months.
7	24DJTPS9916L1Z4	Arihant Trading	Cancelled with remark "registration has been obtained by means of fraud, wilful misstatement or suppression of facts".
8	24BFRPG6863A1ZG	Yagnesh Enterprise	A search dated 24.01.2020 was conducted at the registered premises of M/s Yagnesh Enterprise by the officers of DGGI, Surat. During the search it has been noticed that the premises is a residential premises and

			Shri Harshbhai Ambabhai Godhani was living there with his family. On being asked about M/s Yagnesh Enterprise and its proprietor Shri Yagneshkumar Hareshbhai Godhani, he stated that he doesn't know anything about M/s Yagnesh Enterprise, but Shri Yagneshkumar Hareshbhai Godhani is his son, and works in a bank as a clerk. During the search no incriminating documents related to M/s Yagnesh Enterprise, or any business activities were noticed at the said premise. Further, Shri Harshbhai has stated that someone has forged his son's documents and in the month of Jul-2019 they have also lodged an FIR in police station regarding GST registration of M/s Yagnesh Enterprise.
9	24DQEPS3422R3ZA	Almarwa Corporation	A search dated 09.01.2020 was conducted at the registered premises of M/s Almarwa Corporation by the officers of DGGI, Surat . During the search it has been noticed that the premises is a residential premises and Shri Nasir Khan Pathan was living there with his family. On being asked about M/s Almarwa Corporation and its proprietor Shri Nurealam Bashir Sheikh he stated that he doesn't know anything about M/s Almarwa Corporation or its proprietor.

On visit dated 25.11.2020 made by the officers of DGGI, Surat at registered premises of M/s Krishna Industries, Silvassa it was found non-existent at its actual registered premises. Further on searches/visit made on its supplier's, majority of suppliers were found fake non-existent. Therefore, it appeared that the firm M/s Krishna Industries, Silvassa was a firm created only on paper to avail and pass on fake and bogus ITC on the basis of paper transaction only, without receipt/supply of any goods and/or services.

The financial year wise summary of ITC passed on and availed by M/s Krishna Industries, Silvassa by filing GSTR-1s and GSTR-3Bs, are as under: -

F. Y	ITC passed on in GSTR-1s	ITC availed in GSTR-3Bs
	IGST	IGST
2018-19	6864034	6802149
2019-20	15674760	15634073
	22538794	22436222

6.2.3 Scrutiny of records/returns pertaining to M/s Raghav Industries, Silvassa:

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Scrutiny of GSTR-1s of M/s Raghav Industries, Silvassa revealed that they filed GSTR-1s for the period from Apr-2018 to Oct-2024 but after Aug-2023 they filed NIL GSTR-1s and declared outward taxable value of supply of the goods to the tune of Rs. 65,47,18,286/- and self-assessed GST liability of Rs. 11,78,49,292/- (IGST) in their GSTR-1s for the said period and discharged the tax liability of Rs. 11,70,97,985/- (Rs. 11,66,99,876/- through Electronic Credit Ledger and Rs. 3,98,109/- through Electronic Cash Ledger) by filing GSTR-3B returns. Summary of GSTR-1s filed and ITC passed on is as follows: -

GSTIN of recipient	Name of recipient	Total taxable value	Total ITC involved
24AACCG7701P1ZF	Gautam Exim Limited,	518195343	93275162
24AACCG8923A1ZX	Jay Bharat Metcast Pvt Ltd	132246976	23804456
09AACCPQ7431M2Z8	G M Traders	2944057	529930
24AABCB5715H1Z0	Balbir Rolling Mills Private Limited	751422	135256
24AAMCS5613C1ZL	Permian Peak Oil Private Limited	580488	104488
Total		65,47,18,286	11,78,49,292

During the period, M/s. Raghav Industries, Silvassa, had availed the ITC amounting to Rs. 2,24,34,766/- on the basis of invoices issued by 48 different suppliers. Out of these 48 suppliers, 30 suppliers were found fake on the visit made by the officers and dated visit notes/panchnama/statements of concerned person were recorded. The summary of the visits made are as under: -

TABLE-C

Sr. No.	GSTIN of supplier	Name of Supplier	Remarks
1	24ALIPM4304N1Z0	Patel Enterprise	Cancelled with remark "registration has been obtained by means of fraud, wilful misstatement or suppression of facts".
2	24BINPV7185B2ZU	Arman Sales Corporation	Statement dated 11.06.2019 of Shri Dhori Dilipbhai Meghagibhai owner of premise, was recorded wherein he stated that he has not open any GST firm.
3	24BKPPR3334C1Z8	Heena Enterprise	
4	24BMSPR4008Q1ZB	Magnus Metals	As Explained above in table-A.

5	24BPTPG3529K1ZJ	Metro Metals	As Explained above in table-A.
6	24BWCPM7939R1ZO	M Enterprise	As Explained above in table-B.
7	24BXZPS8862D1ZM	Smit Enterprise	As Explained above in table-A.
8	24DJTPS9916L1Z4	Arihant Trading	As Explained above in table-B.
9	24EHJPM8399N1Z9	Mahadev Trading	As Explained above in table-A.
10	24FYRPD6454B1ZF	Prime Metals	As Explained above in table-A.
11	24JHZPS1147D1ZV	Maru Traders	As Explained above in table-B.
12	24BYYPD3916K2ZZ	Sabar Traders	Statement dated 11.06.2019 of Shri Dhori Dilipbhai Meghagibhai, proprietor of M/s Sabar Traders was recorded wherein he has stated that he has not open any GST firm.
13	27ENEPK3143P1ZL	Goodluck Enterprises	Cancelled due to non-filing of GST returns for more than 6 months.
14	24CFOPA7991H2Z2	Crystal Enterprises	Found non-existent during verification.
15	24BSEPC6812K1ZW	Good Luck Traders	Taxpayer found Non-Functioning/Not Existing at the Principal Place of Business
16	26AAQPQ6522P1ZV	IZ Processors	Registration obtained by means of fraud, willful- misstatement or suppression of facts.
17	24EXYPA8626R1ZF	Lal Sai Enterprise	Found non-existent during verification by SGST/UTGST Authorities.
18	24FUUPM6751F1Z3	M. J Sale	Found non-existent during verification by CGST Authorities.
19	24AOMPD7512E1ZA	Maa Enterprise	Registration obtained by means of fraud, willful- misstatement or suppression of facts.
20	24BZZPV5603H1ZQ	Mukesh Traders	Found non-existent during Physical verification.
21	27ABECS2586F1Z5	Necil Metal Dealers Private Limited	Registration obtained by means of fraud, willful- misstatement or suppression of facts.
22	24FJYPP1851A1Z1	NP	Statement dated 10.05.2024 of Shri Popatlal

		Enterprise	Panseriya, owner of premises was recorded wherein he has stated that he has not open any GST firm.
23	24EFMPR7255K1ZQ	Radadiya Enterprise	Found non-existent during Physical verification.
24	24ANFPG0506M1ZB	Redo Impex	Cancelled due to non-filing of GST returns for more than 6 months.
25	24ABECS2586F1ZB	Se7en Trading Private Limited	Found non-existent during Physical verification.
26	24AACCU7361B1ZM	U Standard Ispat (OPC) Private Limited	Registration obtained by means of fraud, wilful misstatement or suppression of facts.
27	26FGCPK6956E1Z7	VM Enterprise	Cancelled due to non-filing of GST returns for more than 6 months.
28	24HEZPM6766M1Z7	M K Trading	Found non-existent during visit made by SGST/UTGST Authorities.
29	26DAMPG8476D1ZE	Goel Industrial Corporation	Registration obtained by means of fraud, wilful- misstatement or suppression of facts.
30	26BMEPS8386N1Z1	J S Metal Alloys	Investigation has already been initiated by DGGI, SZU.

During search dated 25.11.2020 by the officers of DGGI, Surat at registered premises of M/s Raghav Industries, Silvassa, no business activity was found to be taken place. Further on searches/visit made on its supplier's, majority of suppliers were found fake and non-existent at its registered premises. Therefore, it appeared that the firm M/s Raghav Industries, Silvassa was a firm created on paper only to avail and pass on fake and bogus ITC on the basis of paper transaction only, without receipt/supply of any goods and/or services.

The financial year wise summary of details of GSTR-1s and GSTR-3Bs filed, fake ITC passed on and availed by M/s Raghav Industries, Silvassa, are as under:

F. Y	ITC passed on in GSTR-1s	ITC availed in GSTR-3Bs
	IGST	IGST
2018-19	2,31,31,458	2,30,73,467
2019-20	22,39,497	16,88,824
2020-21	1,66,78,819	1,63,56,100
2021-22	2,97,58,745	3,00,62,096

2022-23	3,14,31,479	3,14,87,239
2023-24	1,46,09,293	1,45,25,618
	11,78,49,291	11,71,93,344

In view of the above, it had been observed that M/s Raghav Industries, Silvassa had availed total fake ITC amounting to Rs.11,71,93,344/- in their GSTR-3B filed for the period from April-2018 to August-2023, whereas as per GSTR-2A, an amount of Rs. 11,53,58,843/- was only available. Thus, it appeared that the M/s Raghav Industries, Silvassa availed self-generated ineligible fake ITC amounting to Rs. 18,34,501/- in addition to the ITC available in GSTR-2A.

7. Outcome of the investigation: -

In view of the discussions held and facts enumerated in the foregoing paras; it appeared that: -

1. M/s Ganpati Traders, Silvassa, was a fake/non-existent firm and no business activities were ever carried out from their registered place of business. The firm was created with sole intention to avail and pass on fake ITC, without actual receipt/supply of goods or services.
2. M/s Krishna Industries, Silvassa, was a fake/non-existent firm and no business activities were ever carried out from their registered place of business. The firm was created with sole intention to avail and pass on fake ITC, without actual receipt/supply of goods or services.
3. M/s Raghav Industries, Silvassa, was registered at a small shop measuring 10*16 (approx.). During the search no business activities and no physical stock of goods were found. As the firm is registered at a small shop, it is not possible to store Metal Scrap at the said registered premises. Further, ongoing through the purchase of M/s Raghav Industries, Silvassa it had been noticed that majority of the suppliers were found fake, non-existent and were suo-moto cancelled by the department. As majority of suppliers of M/s Raghav Industries, Silvassa found fake and non-existent, therefore, it is clear that M/s Raghav Industries, Silvassa has received fake invoices without receiving of goods and/or services, availed fake ITC and further issued fake invoices to their recipients/customers and passed on fake ITC, without supply of any goods and/or services.
4. M/s Gautam Exim Limited, Vapi and M/s Jay Bharat Metcast Pvt. Ltd., Vapi have availed fake ITC on the strength of the fake invoices issued by M/s Ganpati Traders, Silvassa; M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa, which were created with sole purpose of availing and passing of fake ITC.
5. M/s Vandana Enterprises, Vapi have availed fake ITC on the strength of the fake invoices issued by M/s Krishna Industries, Silvassa, without supply of

any goods and/or services.

6. As M/s. R D Logistics, Silvassa and M/s Jayshree Gopal Roadlines, Silvassa both firms are fake therefore, fake LRs were used for showing fake supply of goods as genuine by M/s Ganpati Traders, Silvassa, M/s Krishna Industries, Silvassa, and M/s Raghav Industries, Silvassa.
7. As per KYC documents and data available on AIO/BO Portal summonses dated 10.04.2023, 13.01.2025 and 30.01.2025 were issued to Shri Durgesh Paneri, proprietor of M/s Ganpati Traders, Silvassa at his all-available addresses but he never turned up at DGGI, Surat office to escape from any possible action under provisions of law.
8. Summonses dated 13.01.2025 & 30.01.2025 were issued to Shri Pawan Kumar Prabhudayal Pareek, proprietor of M/s Krishna Industries, Silvassa, but he did not turn up at DGGI, Surat office to escape from any possible action under provisions of law.
9. Summonses dated 10.04.2023, 13.01.2025, 30.01.2025 and 20.02.2025 were issued to Shri Niranjana Khubchand Sharma, proprietor of M/s Raghav Industries, Silvassa, but he never turned up at DGGI, Surat office to escape from any possible action under provisions of law.

8. Contravention of various Provisions of Law: -

8.1 Contravention by M/s. Gautam Exim Limited, Vapi; M/s Jay Bharat Metcast Pvt. Ltd., Vapi and M/s Vandana Enterprises, Vapi: -

From the forgoing paras, it appeared that M/s. Gautam Exim Limited, Vapi, M/s Jay Bharat Metcast Pvt. Ltd., Vapi and M/s Vandana Enterprises, Vapi have contravened the following provisions of the CGST Act, 2017 and Rules made thereunder and also the corresponding provisions of SGST/UTGST Act, 2017:

- i. Section 16(2)(b) of the CGST Act, 2017 (as amended) as they have not received the goods and/or services along with the invoice and availed fake ITC without receipt of any goods and/or service.
- ii. Section 16(2)(c) of the CGST Act, 2017 (as amended) as tax on input supplies has not been legitimately paid to the government as the supplier themselves are fictitious /non-existent firm and created with sole purpose of availing and passing on fake ITC.
- iii. Section 37 of CGST Act 2017 (as amended) of the CGST Act, 2017 in as much as they failed to furnish correct details of outward supplies, as prescribed under the law.
- iv. Section 38 of the CGST Act, 2017 by not furnishing proper details of inward supplies of taxable goods or services.
- v. Section 39 of CGST Act 2017 (as amended) in as much as they failed to furnish the correct GST returns, as prescribed under the law.
- vi. Section 41 of Central Goods & Services Tax Act 2017 (as amended) in as much as they failed to correctly self-assess their eligible Input Tax Credit, in their GST returns.
- vii. Rule 36 of the CGST Rules, 2017 in as much as they availed Input Tax Credit of Central Tax, State Tax and Integrated Tax on the strength of invoices issued by supplier who have not supplied any goods and/or services against the invoices issued by them. Therefore, the invoices issued by them are not eligible documents for the purpose of availment of ITC.

- viii. Section 155 of Central Goods & Services Tax Act, 2017 (as amended) in as much as they failed to prove that they are eligible for Input Tax Credit under the CGST Act as the burden of providing such claim lies on taxpayer.

8.2 Contravention of various Provisions of Law by M/s Ganpati Traders, Silvassa, M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa: -

From the investigation conducted and mentioned in the forgoing paras, it appeared that M/s Ganpati Traders, Silvassa, M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa have contravened the following provisions of the CGST Act, 2017 and Rules made thereunder and also the corresponding provisions of SGST/UTGST Act, 2017:

- i. Section 16(2)(b) of the CGST Act, 2017 (as amended) as they have not received the goods and or services along with the invoice and availed ITC without receipt of any goods and/or service as their most of their suppliers are fictitious/non-existent firm and were cancelled Suo-moto.
- ii. Section 16(2)(c) of the CGST Act, 2017 (as amended) as tax on input supplies has not been legitimately paid to the government as the suppliers of these firms themselves are fictitious/fake firms and most of them were cancelled Suo-moto by the department.
- iii. Section 37 of CGST Act 2017 (as amended) of the CGST Act, 2017 in as much as they failed to furnish correct details of outward supplies, as prescribed under the law.
- iv. Section 38 of the CGST Act, 2017 by not furnishing proper details of inward supplies of taxable goods or services.
- v. Section 39 of CGST Act 2017 (as amended) in as much as they failed to furnish the correct GST returns, as prescribed under the law.
- vi. Section 41 of Central Goods & Services Tax Act 2017 (as amended) in as much as they failed to correctly self-assess their eligible Input Tax Credit, in their GST returns.
- vii. Rule 36 of the CGST Rules, 2017 in as much as they availed Input Tax Credit of Central Tax, State Tax and Integrated Tax on the strength of invoices issued by various suppliers who have not supplied any goods or services against the invoices issued by them. Therefore, the invoices issued by them are not eligible documents for the purpose of availment of ITC.
- viii. Section 155 of Central Goods & Services Tax Act, 2017 (as amended) in as much as they failed to prove that they are eligible for Input Tax Credit under the CGST Act as the burden of providing such claim lies on taxpayer.

9. Suppression of facts, fraud, willful mis-statement and invocation of extended period under Section 74 of the CGST Act, 2017: -

9.1 Whereas, from the investigation conducted as discussed in the foregoing paras, it appeared that the all the Noticees had availed fake and fraudulent ITC without actual receipt of any goods and/or services. The act of availing ITC merely on the basis of invoices without actual receipt of goods and/or services renders the invoices ineligible, unlawful and fake and such invoices cause injury to the interest of revenue as they make way for wrongful flow of Input Tax Credit against which the revenue gets nothing. GST is designed as a value-added taxation scheme with seamless flow of credit of taxes paid at every stage. The invoices are the central pillars of the whole design of GST since they have been bestowed with the authority as an instrument to carry and pass on Input Tax Credit. However, the legislature has fastened certain statutory conditions and restrictions, to prevent the misuse of the mechanism of invoice-based ITC flow. The invoices issued in violation of statutory conditions and restrictions lose their legitimacy and authority as an instrument to carry and pass on Input Tax Credit, and the Input Tax Credit

availed on such invoices becomes fraudulent.

9.2 The act of availing ITC merely on the basis of invoices and without actual receipt of goods or services is misrepresentation by the taxpayer in as much as such fraudulently availed ITC has been camouflaged as lawful availment on the basis of fraudulently issued invoices. It is trite law that misrepresentation amounts to fraud and fraud nullifies every claim based on it. Therefore, it appeared that all the Noticees have fraudulently availed ITC merely on the basis of invoices without actual receipt of goods and/or service by reason of fraud and therefore it appeared that the ITC so availed is recoverable under Section 74(1) of the CGST Act, 2017 alongwith penal action under Section 74 of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017.

All the above acts of contravention appeared to have been committed by the taxpayer, constitute a fraud with an intent to avail fraudulent Input Tax Credit. It was revealed only from the investigation initiated by the DGGI, Surat. The activity carried out by the taxpayer would have gone unnoticed had the inquiry not been initiated by the Department.

9.3 "Willful misstatement" also covers a case of deceit but generally with the connivance of another. In self - assessment regime, the Government has reposed absolute trust and faith in the person/firm who is obliged to maintain simple accounts of the business transactions disclosing all the particulars as are normally expected from the point of view of tax compliance. In the instant case, during investigation, it was found that M/s Ganpati Traders, Silvassa, M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa had not supplied any goods or service, however, the recipient M/s. Gautam Exim Limited, Vapi; M/s Jay Bharat Metcast Pvt. Ltd., Vapi and M/s Vandana Enterprises, Vapi had availed Input Tax Credit fraudulently on the basis of fake bills and these facts has revealed to the Department only after investigation initiated against them, hence they have mis-stated to the Department.

9.4 "Suppression of Facts" can be meant that the correct information was not disclosed deliberately to avail ineligible and fraudulent Input Tax Credit and to evade payment of duty. In other words, the term "suppression" is specifically explained under Section 74 of the CGST Act, to mean, "non-declaration of facts or information which a taxable person is statutorily required to declare in the return, statement, report or any other document furnished under the Act or the Rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper Officer."

9.5 In the instant case, all the Noticees had never disclosed the facts relating to their activities to the department on their own. It is a statutory obligation on the part of the taxpayers to correctly avail the eligible Input Tax Credit, pay GST and file true and correct returns. In the era of self-assessment, trust is placed on the taxpayers to correctly self-assess their tax liability and pay the same through correctly availed Input Tax Credit and disclose the true values in their GST returns. However, in the instant case the all the Noticees have availed fake and fraudulent ITC.

9.6 Whereas, it appeared that the all the Noticees had suppressed the material facts from the department by resorting to willful mis-statement and suppression of the facts, as evident from the fact that they had fraudulently availed inadmissible Input Tax Credit and shown it in GST returns filed, with an intent to avail

inadmissible Input Tax Credit. The fact of such wrong doing came to light only when proceeding was initiated by DGGI, Surat, under CGST Act, 2017. If said proceedings have not been undertaken, the availment of fraudulently availed Input Tax Credit would have gone unnoticed. Whereas in terms of Section 16 of CGST Act 2017 *Every registered person is eligible to take credit of Input Tax, subject to such conditions and restrictions as prescribed and in the manner specified in Section 17, 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.* Thus, in the era of self-assessment/self-removal, absolute trust has been reposed on the taxpayers to avail correct Input Tax credit of Goods or Services in the course or furtherance of his business but the taxpayer has failed to do so. The said trust has been breached by all the Noticees, as it also appeared that they were well aware of the facts that the business activities carried out by them in as much that they have not availed Input Tax Credit as per the provisions of Rules 16(2) of CGST Act, 2017. Therefore, it appeared that the above acts of omissions by the Noticees, tantamount to fraud, willful mis-statement and suppression of the material facts from the department with intent to avail wrong Input Tax Credit on the basis of fake invoices and they have thereby contravened the various legal provisions of the CGST Act and the Rules made thereunder. Any suppression of facts resulting in wrong self-assessment causing evasion of tax, which gets detected during scrutiny/investigation by the Departmental officers, enables invocation of extended period under Section 74 of the Act.

10. Applicability of Section 122 (1)(ii) and Section 122 (1)(vii) of the CGST/SGST/UTGST Act, 2017 in respect of M/s Ganpati Traders, Silvassa; M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa: -

It appeared that firms, M/s Ganpati Traders, Silvassa; M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa have been found to be either bogus or merely running on paper and availed and or utilized input tax credit without actual receipt of goods and/or services and also passes on fake input tax credit without actual supply of goods and/or services, in contravention of the various provisions of the Act or the rules made thereunder. Such act of contravention has been categorized as an offence covered under Section 122(1)(ii) and Section 122(1)(vii) of the CGST/SGST/UTGST Act and therefore, it appears that firms M/s Ganpati Traders, Silvassa; M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa have rendered themselves liable for penalty under Section 122(1)(ii) and Section 122(1)(vii) of the CGST/SGST/UTGST Act read with Section 20 of the IGST Act, 2017.

11. Quantification of the liabilities in respect of recipients: -

11.1 Quantification of the liabilities for M/s Gautam Exim Limited, Vapi: -

On the basis of GSTR-2A, GSTR-3B of M/s Gautam Exim Limited, Vapi and statements of Shri Raman Balasubramanian, Managing Director of M/s Gautam Exim Limited, Vapi recorded under Section 70 of the CGST Act, 2017, and discussed in foregoing paras, the ineligible ITC availed and utilized by M/s Gautam Exim Limited, Vapi is amounting to Rs. **12,38,96,621/-** during the period Apr-2018 to Aug-2023 on the basis of fake invoices issued by M/s Ganpati Traders, Silvassa, M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa without actual receipt of goods and/or services. The financial year wise details of

fake ITC availed and utilized is as under: -

F. Y.	Amount
2018-19	1,49,45,264
2019-20	2,85,74,764
2020-21	99,14,881
2021-22	2,44,20,940
2022-23	3,14,31,479
2023-24	1,46,09,293
Total	12,38,96,621

11.2 Quantification of the liabilities of M/s Jay Bharat Metcast Pvt. Ltd., Vapi: -

On the basis of GSTR-2A, GSTR-3B of M/s Jay Bharat Metcast Pvt. Ltd., Vapi and statements of Shri Nitesh Mukeshbhai Thakur, Director of M/s Jay Bharat Metcast Pvt. Ltd., Vapi recorded under Section 70 of the CGST Act, 2017, and discussed in foregoing paras, the ineligible ITC availed and utilized by M/s Jay Bharat Metcast Pvt. Ltd., Vapi is amounting to Rs. **2,87,47,388/-** during the period Apr-2018 to Aug-2023 on the basis of fake invoices issued by M/s Ganpati Traders, Silvassa, M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa without actual receipt of goods and/or services. The financial year wise details of fake ITC availed and utilized is as under: -

F. Y.	Amount
2018-19	1,27,73,588
2019-20	36,86,595
2020-21	77,19,074
2021-22	45,68,131
Total	2,87,47,388

11.3 Quantification of the liabilities of M/s Vandana Enterprises, Vapi: -

On the basis of GSTR-2A, GSTR-3B of M/s Vandana Enterprises, Vapi and discussed in foregoing paras, the ineligible ITC availed and utilized by M/s Vandana Enterprises, Vapi is amounting to Rs. **3,78,000/-** during the period Apr-2018 to Oct-2019 on the basis of fake invoices issued by M/s Krishna Industries, Silvassa, without actual receipt of goods or services. The financial year wise details of fake ITC availed and utilized is as under: -

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F. Y.	Amount
2018-19	3,78,000
Total	3,78,000

12. Quantification of liability in respect of suppliers: -

12.1 Quantification of liability in respect of M/s Ganpati Traders, Silvassa: -

12.1.1 On scrutiny of electronic credit ledger of M/s Ganpati Traders, Silvassa, it revealed that ITC amounting to Rs. 4,49,434/- is still lying in their electronic credit ledger. The details of ITC lying balance in the electronic credit ledger are as follows: -

F. Y.	Credit lying in electronic credit ledger (In Rs.)			
	IGST	CGST	SGST/UTGST	Total
2020-21	4,48,754	340	340	4,49,434

12.1.2 Therefore, M/s Ganpati Traders, Silvassa is liable to pay/reverse ITC amounting to Rs.4,49,434/- as mentioned in above table, under Section 74 of the CGST Act, 2017/SGST/UTGST Act, 2017 alongwith applicable penalty under Section 74 of the CGST Act, 2017, read with Section 20 of the IGST Act, 2017.

12.1.3 M/s Ganpati Traders, Silvassa found non-existent at its declared place of business and had availed and passed on fake ITC without receipt or supply of any goods or services. The financial year wise summary of fake ITC availed and passed on by M/s Ganpati Traders, Silvassa are as under:

F. Y	ITC passed on in GSTR-1s	ITC availed in GSTR-3Bs
	IGST	IGST
2019-20	15456426	16625628
2020-21	1243683	1216436
	16700109	17842064

12.1.4 In view of the above, M/s Ganpati Traders, Silvassa is liable for penalty in terms of Section 122(1)(ii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and corresponding Sections of State/UTGST Act, 2017, for fraudulently passing on fake ITC of Rs. 1,67,00,109/- without actual supply of goods and/or services. Further, they are also liable of penalty in terms of Section 122(1)(vii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and corresponding Sections of State/UTGST Act, 2017, for fraudulent availment of ITC of Rs. 1,78,42,064/- without actual receipt of goods and/or services.

12.2 Quantification of liability in respect of M/s Krishna Industries, Silvassa: -

12.2.1 As discussed in the foregoing paras it has been noticed that majority of suppliers of M/s Krishna Industries, Silvassa were found non-existent at their

declared premises and were suo-moto cancelled by the department. As suppliers of M/s Krishna Industries, Silvassa were found non-existence, therefore, it is clear that M/s Krishna Industries, Silvassa have received invoices without supply of goods and/or services and availed fake ITC on the basis of said invoices.

12.2.2 The financial year wise summary of fake ITC availed in GSTR-3Bs and passed on in GSTR-1s by M/s Krishna Industries, Silvassa are as under:

F. Y	ITC passed on in GSTR-1s	ITC availed in GSTR-3Bs
	IGST	IGST
2018-19	68,64,035	68,02,149
2019-20	1,56,74,759	1,56,34,073
Total	2,25,38,794	2,24,36,222

12.2.3 In view of the above, M/s Krishna Industries, Silvassa are liable for penalty in terms of Section 122(1)(ii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and corresponding Sections of State/UTGST Act, 2017, for fraudulently passing on fake ITC of Rs. 2,25,38,794/- without actual supply of goods and/or services. Further, they are also liable of penalty in terms of Section 122(1)(vii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and corresponding Sections of State/UTGST Act, 2017, for fraudulent availment of fake ITC of Rs. 2,24,36,222/- without actual receipt of goods and/or services.

12.3 Quantification of liability in respect of M/s Raghav Industries, Silvassa: -

12.3.1 As discussed in the foregoing paras, it has been noticed that majority of suppliers of M/s were found non-existent at their declared premises and were suo-moto cancelled by the department. As suppliers of M/s Raghav Industries, Silvassa were found non-existence, therefore, it is clear that M/s Raghav Industries, Silvassa have received invoices without supply of goods and/or services and availed fake ITC on the basis of said invoices. Financial year wise fake ITC availed and passed on by M/s Raghav Industries, Silvassa is as under: -

F. Y	ITC passed on in GSTR-1s	ITC availed in GSTR-3Bs
2018-19	2,31,31,458	2,30,73,467
2019-20	22,39,497	16,88,824
2020-21	1,66,78,819	1,63,56,100
2021-22	2,97,58,745	3,00,62,096
2022-23	3,14,31,479	3,14,87,239
2023-24	1,46,09,293	1,45,25,618
Total	11,78,49,291	11,71,93,344

12.3.2 In view of the above, M/s Raghav Industries, Silvassa are liable for penalty in terms of Section 122(1)(ii) of the CGST Act, 2017 read with Section 20 of

the IGST Act, 2017 and corresponding Sections of State/UTGST Act, 2017, for fraudulently passing on fake ITC of Rs. 11,78,49,291/- without actual supply of goods and/or services. Further, they are also liable of penalty in terms of Section 122(1)(vii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and corresponding Sections of State/UTGST Act, 2017, for fraudulent availment of fake ITC of Rs. 11,71,93,344/- respectively without actual receipt of goods and/or services.

12.3.3 Further, on scrutiny of electronic credit ledger of M/s Raghav Industries, Silvassa, it revealed that ITC amounting to Rs. 2,10,064/- is still lying in their electronic credit ledger. The details of ITC lying balance in their electronic credit ledger are as follows: -

F. Y.	Credit lying in electronic credit ledger (In Rs.)			
	IGST	CGST	SGST/UTGST	Total
2023-24	0	772	2,09,292	2,10,064

12.3.4 Therefore, M/s Raghav Industries, Silvassa is also liable to pay/reverse ITC amounting to Rs. 2,10,064/- as mentioned in above table, under Section 74 of the CGST Act, 2017/SGST/UTGST Act, 2017 alongwith applicable penalty under Section 74 of the CGST Act, 2017, read with Section 20 of the IGST Act, 2017.

13. The notice was issued to multiple Noticees having different PANs and their principal place of businesses falls under different Central Tax Commissionerates. During the course of investigation, it was observed that the Noticees were registered under two different Central Tax Commissionerates i.e. M/s Gautam Exim Limited, Vapi and M/s Jay Bharat Metcast Pvt Ltd, Vapi, and M/s Vandana Enterprises, Vapi are registered under Surat Central Tax Commissionerate and M/s Ganpati Traders, Silvassa, M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa are registered under Daman Central Tax Commissionerate. Hence, as provided under Circular No. 31/05/2018-GST dated 9th February, 2018 (as amended by Circular No.169/01/2022-GST dated 12th March, 2022 and further amended by Circular No. 239/33/2024-GST dated 4th December, 2024) there will be a common adjudicating authority for all the Noticees. The common adjudicating authority as provided under said circular (as amended) will be Additional/Joint Commissioner, CGST & Central Excise, Surat Commissionerate, GST Bhavan Opposite Gandhi Baug, Chowk Bazar, Surat.

14. Whereas, in accordance with the provision of Rule 142(1A) of the CGST Rule, 2017, intimations of tax/ITC ascertained were issued to M/s Gautam Exim Limited, Vapi, M/s Jay Bharat Metcast Pvt. Ltd., Vapi, M/s Ganpati Traders, Silvassa, M/s Raghav Industries, Silvassa and M/s Vandana Enterprises, Vapi in the prescribed form DRC-01A on 12.06.2025, for payment of the amount of ITC/tax ascertained along with applicable interest and penalty or to file submission against the same.

15.1 In response to the DRC-01A, M/s Gautam Exim Limited, Vapi has submitted their reply vide letter dated 18.06.2025, wherein they have stated that the demand of Rs. 12,38,96,621/- is not acceptable as all purchases are supported by valid tax invoices, E-way bills, delivery challans etc. and the goods are

physically delivered. The submission of M/s Gautam Exim Limited, Vapi has been scrutinized in detail, and it has been observed that their submission is not proper and not supported by documents. Their supplier's M/s Ganpati Traders, Silvassa and M/s Krishna Industries, Silvassa were found non-existent at their principal place of business and all their suppliers are also cancelled as detailed in foregoing paragraphs. Further, as detailed in foregoing paragraphs the other supplier viz. M/s Raghav Industries, Silvassa was found working on paper only without actual supply or receipt of any goods and/or services. All the three suppliers issued tax invoices, e-way bills etc. to give the picture of legitimate business to a fake and non-genuine business which was running on paper only without supply of goods and/or services, as described in detail in the foregoing paragraphs of this notice. It is again reiterated that all records submitted by the taxpayer were examined and it revealed that only fake supplies were shown on paper, and only fake records were created and used for availing inadmissible ITC.

15.2 In response to the DRC-01A M/s Jay Bharat Metecast Pvt. Ltd., Vapi submitted their reply vide letter dated 18.06.2025, wherein they have stated that they have valid tax invoices and all the other supporting documents to prove receipt of goods on purchases made from the said three firms M/s Ganpati Traders, Silvassa, M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa; that they have fulfilled all the conditions of Section 16(2) of CGST Act, 2017 for the purpose of availing the Input Tax Credit. The submission of M/s Jay Bharat Metecast Pvt. Ltd., Vapi has been scrutinized in detail, and it had been observed that their submission is not proper and not supported by documents. Their supplier's M/s Ganpati Traders, Silvassa and M/s Krishna Industries, Silvassa were found non-existent at their principal place of business and all their suppliers are also cancelled as detailed in foregoing paragraphs. Further, as detailed in foregoing paragraphs the other suppliers viz. M/s Raghav Industries, Silvassa was found working on paper only without actual supply or receipt of any goods and/or services. All the three suppliers issued tax invoices, e-way bills etc, to give the picture of legitimate business to a fake and non-genuine business which was running on paper only without supply of goods and/or services, as described in detail in the foregoing paragraphs of this notice.

15.3 No reply of DRC-01A from M/s Ganpati Traders, Silvassa, M/s Vandana Enterprises, Vapi, Silvassa and M/s Raghav Industries, Silvassa have been received till the given date.

18. In view of the above, M/s Gautam Exim Limited, Vapi, M/s Jay Bharat Metecast Pvt. Ltd., Vapi, M/s Ganpati Traders, Silvassa, M/s Raghav Industries, Silvassa and M/s Vandana Enterprises, Vapi and M/s Krishna Industries, Silvassa are liable to pay the tax / ITC liability as detailed in para 13 and 14 of this notice.

16. Demand: -

16.1 M/s Gautam Exim Limited, (GSTIN-24AACCG7701P1ZF), 2nd Floor, Plot No. 29, Pavitra, Chharwada Road , GIDC , Vapi, Shri Ghatkopar Sweet & Farsan, Opp. Sargam Society, Vapi, Valsad, Gujarat, 396195 were called upon to Show Cause to the Additional/Joint Commissioner, CGST & Central Excise, Surat Commissionerate having his/her office at GST Bhavan Opposite Gandhi Baug, Chowk Bazar, Surat, within 30 days of receipt of this notice as to why: -

(i) Ineligible fake ITC of IGST amounting to **Rs. 12,38,96,621/-** availed fraudulently in contravention of provisions of Section 16 of CGST Act, 2017 for the period from Apr-2018 to Aug-2023 should not be disallowed, demanded and recovered from them under Section 74(1) of the CGST, 2017 read with corresponding Section of State/UT GST Act, 2017 and Section 20 of IGST Act, 2017;

(ii) Interest at appropriate rate should not be demanded and recovered from them, on the amount mentioned at Sr. No. (i) above, under Section 50 of the CGST Act, 2017 read with corresponding Section of State/UT GST Act, 2017 and Section 20 of the IGST Act, 2017;

(iii) Penalty should not be imposed upon them on the amount mentioned at Sr. No. (i) above, under Section 74 of the CGST Act, 2017 read with corresponding Section of State/UT GST Act, 2017 and Section 20 of IGST Act, 2017 for the aforementioned contraventions.

16.2 M/s Jay Bharat Metcast Pvt. Ltd., (GSTIN-24AACCJ8923A1ZX), Vapi, Survey No 57/2, Village Morai, Vapi, TA Pardi, Valsad, Gujarat, 396195 were called upon to Show Cause to the Additional/Joint Commissioner, CGST & Central Excise, Surat Commissionerate having his/her office at GST Bhavan Opposite Gandhi Baug, Chowk Bazar, Surat, within 30 days of receipt of this notice as to why: -

(i) Ineligible fake ITC of IGST amounting to **Rs. 2,87,47,388/-** availed fraudulently in contravention of provisions of Section 16 of CGST Act, 2017 for the period from Apr-2018 to Aug-2023 should not be disallowed, demanded and recovered from them under Section 74(1) of the CGST, 2017 read with corresponding Section of State/UT GST Act, 2017 and Section 20 of IGST Act, 2017;

(ii) Interest at appropriate rate should not be demanded and recovered from them, on the amount mentioned at Sr. No. (i) above, under Section 50 of the CGST Act, 2017 read with corresponding Section of State/UT GST Act, 2017 and Section 20 of the IGST Act, 2017;

(iii) Penalty should not be imposed upon them on the amount mentioned at Sr. No. (i) above, under Section 74 of the CGST Act, 2017 read with corresponding Section of State/UT GST Act, 2017 and Section 20 of IGST Act, 2017 for the aforementioned contraventions.

16.3 M/s Vandana Enterprises (GSTIN-24AGCPJ7828F1ZI), Opp. Jalaram Guest House, Survey No 466 Palkee Plot No. 04, Manglam Colony, Silvassa Road Dungra, Vapi, Valsad, Gujarat, 396195 were called upon to Show Cause to the Additional/Joint Commissioner, CGST & Central Excise, Surat Commissionerate having his/her office at GST Bhavan Opposite Gandhi Baug, Chowk Bazar, Surat, within 30 days of receipt of this notice as to why: -

(i) Ineligible ITC of IGST amounting to **Rs. 3,78,000/-** availed fraudulently in contravention of provisions of Section 16 of CGST Act, 2017 for the period from Apr-2018 to Oct-2019 should not be disallowed, demanded and recovered from them under Section 74(1) of the CGST, 2017 read with corresponding Section of State/UT GST Act, 2017 and Section 20 of IGST Act, 2017;

(ii) Interest at appropriate rate should not be demanded and recovered from them, on the amount mentioned at Sr. No. (i) above, under Section 50 of the CGST

Act, 2017 read with corresponding Section of State/UT GST Act, 2017 and Section 20 of the IGST Act, 2017;

(iii) Penalty should not be imposed upon them on the amount mentioned at Sr. No. (i) above, under Section 74 of the CGST Act, 2017 read with corresponding Section of State/UT GST Act, 2017 and Section 20 of IGST Act, 2017 for the aforementioned contraventions.

16.4 M/s Ganpati Traders (GSTIN-26AHIPP8549A1Z6) 1st, A1 204, Yogi Hills, Silvassa Amli, Silvassa, Dadra and Nagar Haveli, Dadra and Nagar Haveli and Daman and Diu, 396230 were called upon to Show Cause to the Additional/Joint Commissioner, CGST & Central Excise, Surat Commissionerate having his/her office at GST Bhavan Opposite Gandhi Baug, Chowk Bazar, Surat, within 30 days of receipt of this notice as to why: -

(i) Ineligible ITC amounting to **Rs. 4,49,434/- (Rs. 4,48,754/- IGST + Rs. 340/- CGST + Rs. 340/- SGST/UTGST)** availed fraudulently in contravention of provisions of Section 16 of CGST Act, 2017 for the period of F.Y. 2020-21, lying balance in their electronic credit ledger should not be disallowed, demanded and recovered from them under Section 74(1) of the CGST, 2017 read with corresponding Section of State/UT GST Act, 2017 and Section 20 of IGST Act, 2017;

(ii) Penalty should not be imposed upon them on the amount of evasion mentioned at Sr. No. (i) above, under Section 74 of the CGST Act, 2017 read with corresponding Section of State/UT GST Act, 2017 and Section 20 of IGST Act, 2017 for the aforementioned contraventions.

(iii) Penalty in terms of Section 122(1)(ii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and corresponding Sections of State/UTGST Act, 2017, should not be imposed upon them for fraudulently passing on ITC of Rs. 1,67,00,109/- without actual supply of goods and/or services by contravention of provisions of CGST Act, 2017.

(iv) Penalty in terms of Section 122(1)(vii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and corresponding Sections of State/UTGST Act, 2017, should not be imposed upon them for fraudulent availment of ITC of Rs. 1,78,42,064/- without actual receipt of goods and/or services by contravention of provisions of CGST Act, 2017.

16.5 M/s Krishna Industries (GSTIN-26ALEPP9431H1ZW), Ground Floor, A/3-104, Bramand Complex, Amli Dayat Falia, Silvassa, Dadra and Nagar Haveli and Daman and Diu, 396230 were called upon to Show Cause to the Additional/Joint Commissioner, CGST & Central Excise, Surat Commissionerate having his/her office at GST Bhavan Opposite Gandhi Baug, Chowk Bazar, Surat, within 30 days of receipt of this notice as to why: -

- i. Penalty in terms of Section 122(1)(ii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and corresponding Sections of State/UTGST Act, 2017, should not be imposed upon them for fraudulently passing on ITC of Rs. 2,25,38,794/- without actual supply of goods and/or services by contravention of provisions of CGST Act, 2017.
- ii. Penalty in terms of Section 122(1)(vii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and corresponding Sections of State/UTGST Act, 2017, should not be imposed upon them for fraudulent availment of ITC of Rs. 2,24,36,222/- without actual receipt of goods and/or services by contravention of provisions of CGST Act, 2017.

16.6 M/s Raghav Industries (GSTIN-26BQWPS1030B1ZX), Shop No. 10 Ground

Floor, KP Vihar, opp. Essar Petrol Pump, Dadra, Dadra and Nagar Haveli-396193 were called upon to Show Cause to the Additional/Joint Commissioner, CGST & Central Excise, Surat Commissionerate having his/her office at GST Bhavan Opposite Gandhi Baug, Chowk Bazar, Surat, within 30 days of receipt of this notice as to why: -

(i) Ineligible ITC amounting to **Rs. 2,10,064/- (Rs. 0/- IGST + Rs. 772/- CGST + Rs. 2,09,292/- SGST/UTGST)** availed fraudulently in contravention of provisions of Section 16 of CGST Act, 2017 for the F.Y. 2023-24, lying balance in their electronic credit ledger should not be disallowed, demanded and recovered from them under Section 74(1) of the CGST, 2017 read with corresponding Section of State/UT GST Act, 2017 and Section 20 of IGST Act, 2017;

(ii) Penalty should not be imposed upon them on the amount of evasion mentioned at Sr. No. (i) above, under Section 74 of the CGST Act, 2017 read with corresponding Section of State/UT GST Act, 2017 and Section 20 of IGST Act, 2017 for the aforementioned contraventions.

(iii) Penalty in terms of Section 122(1)(ii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and corresponding Sections of State/UTGST Act, 2017, should not be imposed upon them for fraudulently passing on ITC of Rs. 11,78,49,291/- without actual supply of goods and/or services by contravention of provisions of CGST Act, 2017.

(iv) Penalty in terms of Section 122(1)(vii) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and corresponding Sections of State/UTGST Act, 2017, should not be imposed upon them for fraudulent availment of ITC of Rs. 11,71,93,344/- without actual receipt of goods and/or services by contravention of provisions of CGST Act, 2017.

17. DEFENSE SUBMISSION & PERSONAL HEARINGS:

17.1 DEFENSE SUBMISSION: -

In response to the Show Cause Notice No. DGGI/SZU/36-82/2025-26/Gr-07 dated 20.06.2025 issued to M/s. Gautam Exim Limited [GSTIN: 24AACCG7701P1ZF] vide letter dated 20.08.2025, M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6) vide letter dated Nil (received to this office on 12.08.2025) and M/s Vandana Enterprises (GSTIN-24AGCPJ7828F1ZI) vide email dated 10.11.2025 (the date of Personal Hearing) submitted their defense replies.

Further, M/s Jai Bharat Metcast Pvt Ltd (GSTIN 24AACCJ8923A1ZX), M/s Krishna Industries (GSTIN 26ALEPP9431H1ZW) and M/s M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX) had not filed any defence reply against the notice till date even though they are required to file reply within 30 days of the receipt of the notice. Neither any request has been sought by them for extension of time to file their defence reply, nor any intimation making any plea for personal hearing in the matter has been made by them before this office.

17.1.1 Defence Submission made by M/s. Gautam Exim Limited [GSTIN: 24AACCG7701P1ZF];

SUBMISSIONS

- A. At the outset, the Noticee submits that the impugned SCN is incorrect in law as well as on facts. The Noticee submits that each and every finding/allegation of the Ld. Additional Director in the impugned SCN is incorrect on facts and perverse. The Noticee submits that the Noticee counters and is not agreeing with any finding/allegation of the Ld. Additional Commissioner in the impugned show cause, in so far as it is against the Noticee, since the same is based on an incorrect appreciation of the factual and legal position.
- B. The Noticee has correctly availed ITC (amounting to Rs. 12,38,96,621/-) against the GST paid on input supplies in accordance with Section 16 of the CGST Act.
- C. The compliance of condition stipulated in Section 16(2)(c) of CGST Act, 2017, requires a recipient of goods or services to perform an impossible act. Thus, ITC cannot be denied in the present case.
- D. Equating the term 'received' with 'physical' receipt is wrong after-effect of excise law jurisprudence.
- E. Transfer of title in goods implies actual delivery of goods.
- F. The Noticee is not liable to reverse the ITC on supplies procured from suppliers whose registrations were active at the time of availment of the ITC and were cancelled subsequently with retrospective effect.
- G. ITC is a substantive right. ITC availed by the Noticee against the tax invoices and correlated E-way bills and consignment notes cannot be demanded to be reversed on account of error accounted by the supplier or transporters in the lorry receipts.
- H. The department in the present case, completely misconstrued the facts of the matter and wrongly stated that there is no movement of goods. The department failed to appreciate the documents submitted during the course of investigation and practice followed by the Noticee.
- I. The Noticee has submitted documentary evidence to establish its claim of ITC beyond the reasonable doubt and standards of preponderance of probabilities.
- J. The Noticee availed and utilized ITC on actual receipt of goods from the suppliers. Further, there is no allegation that the consideration paid by Noticee to the suppliers has flown back to the Noticee.
- K. Without prejudice, reassessment cannot be carried out at the recipient's (i.e., the Noticee) end. The Noticee is entitled for availment of ITC of GST paid in accordance with Section 16 of the CGST Act.
- L. The Noticee had rightly availed ITC on the material received from the suppliers. The ITC cannot be denied to the Noticee, on the ground that the supplier's supplier is fake/bogus/non-genuine/ non-existent.
- M. Without prejudice to the above and in worst case scenario, the recent Circular no. 171/03/2022-GST dated 06.07.2022 issued by CBIC clarifies the position that there cannot be any proceeding against the buyer of the goods.
- N. Without prejudice, the Noticee has availed input tax credit based on the invoices issued by the supplier. It is settled principle that source of source is not required to be proved.
- O. The impugned SCN have been issued on assumptions and presumptions. The department has actively ignored the documents submitted by the Noticee and presumed that no goods were involved in transactions carried out by the Noticee.
- P. Without prejudice, assuming, if the contention of the department is to be accepted that there is no supply being made to the Noticee there would be no further supply to M/S. Jay Bharat Metcast Pvt. Ltd too, and there was no requirement to pay GST at all and whatever tax is paid should be refunded.
- Q. Without prejudice to other submissions, assuming without admitting that the Noticee had not received goods from the suppliers, then utilization of credit by the Noticee, for payment of output tax, should be treated as reversal of alleged inadmissible credit.

R. Interest is not recoverable from the Noticee.

S. Demand proceedings initiated and imposition of penalty under Section 74 (1) of the CGST Act, respectively, is unsustainable and unwarranted due to absence of fraud, suppression, etc.

THE NOTICEE HAS CORRECTLY AVAILED ITC (AMOUNTING TO RS. 12,38,96,621/-) AGAINST THE GST PAID ON INPUT SUPPLIES IN ACCORDANCE WITH SECTION 16 OF THE CGST ACT.

The impugned SCN has alleged the ITC availed by the Noticee amounting to Rs. 12,38,96,621/- is on account of violation of Section 16 of CGST Act. The impugned SCN in paragraph 11.2 states that the Noticee has participated in paper transaction instead of executing or receiving valid supplies for the purpose of taking undue advantages of ITC.

In this regard, the impugned SCN has raised issues on various factual matrix for challenging the ITC availed by the Noticee. In the said issues, the impugned SCN has stated that the Noticee has not received goods for which tax invoices have been raised, E-way bills or consignment notes have been generated, thereby rendering violations of Section 16(2)(b) of the CGST Act.

The common submissions pertaining to the challenge of the validity of ITC availed by the Noticee on specific supplies received from the suppliers in question, or in cases of specific factual matrix as highlighted in the specific findings of the impugned SCN have been made in the foregoing paragraphs.

All conditions prescribed in Section 16 of the CGST Act have been fulfilled for the availment of ITC on supplies.

Section 16 of the CGST Act prescribes eligibility and conditions for availing ITC. The provisions of Section 16 of the CGST Act prevalent during the period in dispute have been reproduced below for easy reference.

"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;

[1](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;[2]

(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 to 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.

(c) subject to the provisions of [section 41 or section 43A], 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:

...Emphasis Supplied

It is submitted that the Noticee is eligible to avail ITC as they have fulfilled all conditions for availing ITC entailed and mandated under Section 16 of the CGST Act making the Noticee, a bona fide purchaser. The Noticee has fulfilled the following conditions for the availment of ITC.

- a. Section 16(2)(a): The Noticee is in possession of tax invoices / debit notes issued by the suppliers registered under the CGST Act. This is an undisputed fact for the period in dispute.
- b. Section 16(2)(b): The Noticee has received the goods or services or both as per the tax invoices issued by the suppliers. The Noticee is in possession of E-way bills, lorry receipts and gate register reports in cases wherever the movement of goods has occurred from suppliers to the Noticee's customer.
- c. Section 16(2)(aa): The details of supplies received by the Noticee are appearing in GSTR-2A. This is an undisputed fact for the period in dispute for the period in dispute.
- d. Section 16(2)(c): The Noticee has made payment of GST amount to the suppliers. The substantive liability to deposit the said taxes are with suppliers. In the transactions under scrutiny, the suppliers have already filed their GSTR-3B, therefore, depositing the GST amount due to the government exchequer.
- e. Section 16(2)(d): The Noticee has furnished all returns as prescribed under Section 39 of the CGST Act, 2017. This is an undisputed fact for the period in dispute.

It is submitted that the Noticee has made payment of GST amount as applicable on the input supplies towards the supplier. In this regard, the Noticee has submitted the ledgers for period in dispute to substantiate its payment of GST amount to the suppliers. The ledgers have been enclosed as **Annexures-** above. 7, 13, 19.

Accordingly, the Noticee has availed ITC on the basis of the tax invoices correlated with E-waybills, consignment notes, lorry receipts etc., supplies, i.e., tax invoices reflecting in GSTR-2A, filing of its GST returns, and payment of GST amount to its suppliers in accordance with Section 16 of the CGST Act.

With respect to compliance of Section 16(2)(c) of the CGST Act, it is further submitted that the substantive liability to deposit GST collected from customers with the Government exchequer is on the supplier of goods or services. The reversal of credit in the hands of the recipient of goods or services can only be a protective measure adopted by the Government. It is submitted that the liability imposed on the recipient of services under Section 16(2)(c) is only a protective liability and sufficient steps must be taken to recover tax from the supplier first specially in cases where the recipient has complied with all the substantial conditions for availing ITC stipulated in Section 16 of CGST Act.

It is submitted that it is not matter of dispute that the invoices under scrutiny are not appearing in GSTR-2A. The suppliers have filed their GSTR-3B. The Noticee has enclosed details of invoices, E-way bills,consignment note and delivery challan to substantiate that its customer has received the input goods upon which it has availed the ITC, for the period FY 2018-19 to 2023-24. In any case, the Noticee is submitting the copies of material received reports of Jaybharat Metcast Pvt. Ltd. Showing the date of receipt of goods, Eway bill, name of supplier, Quantity of goods received, Transport Vehicle No etc showing receipt of goods in the “ bill to shipped to ” model of supply as **Annexures- 6, 12 & 18.**

Further, the above is also evidenced by the certificate issued by the Noticee’s customer confirming the physical receipt of goods in its premises as **Annexures 6, 12, & 18.**

The Noticee has submitted all the documentary evidence substantiating their claim of ITC and discharging the burden of proof on their part.

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The impugned SCN in paragraph 11.6 has stated that in order to correctly avail ITC, theconditions prescribed under Section 16(2) of the CGST Act must be fulfilled. In this regard, the Noticee submits that it has provided all the documents which had been requested by the department.

The Noticee has submitted documentations such as, tax invoices,proof of payment of consideration, proof of movement of goods, acknowledgement for receipt of goods, toll receipts, freight charges, reflection of the said supplies in GSTR-2A etc., for verification of supply and validity of the claim of ITC and genuineness of the transactions.

In the impugned SCN, it has been alleged that the Noticee was required to prove beyond doubt that it was eligible to avail ITC. As per the impugned SCN, the submission of tax invoices, E-way bills, consignment note evidencing receipt of goods by the Noticee’s customer, for the purpose of availment of ITC was not sufficient.

In this regard, it is submitted that aforesaid allegation is incorrect and based on wrong interpretation of statutory provisions of the CGST Act read with the CGST Rules. In terms of Rule 36(1)(a), a registered person is entitled to avail ITC on the basis of an invoice issued by the supplier of goods. Therefore, possession of tax invoice is sufficient for a registered person to avail the ITC.

However, the impugned SCN has travelled beyond the statutory provisions to state that a registered person must be in possession of name of selling dealer, details of vehicles which has delivered goods, acknowledgement of taking delivery of goods, material received reports from the customer Jay Bharat Metcast Pvt. Ltd. for availing ITC. These requirements are not flowing from any statutory provision of the CGST Act read with the CGST Rules.

In the present case, it is an undisputed fact that the Noticee was in possession of relevant tax invoices in respect of supplies received. The adjudicating authority was duty bound to allow the ITC once it was established that the Noticee was in possession of tax invoices. Hence, the allegation that the Noticee did not prove eligibility of ITC by submitting aforesaid documents is perverse and incorrect.

Therefore, it is submitted that when the substantial conditions for availing ITC as per Section 16 of the CGST Act, have been fulfilled by the Noticee and the Noticee has duly discharged the burden of proof which lies upon it regarding admissibility of ITC by adducing catena of documentary evidence that the subject inputs were received and used in rendering the output services on which GST was duly charged and paid to the Government Exchequer.

Accordingly, it is submitted that the demand of reversal of ITC amounting to Rs. 12,38,96,621/- and the impugned SCN is liable to be set aside.

THE COMPLIANCE OF CONDITION STIPULATED IN SECTION 16(2)(C) OF CGST ACT, 2017, REQUIRES A RECIPIENT OF GOODS OR SERVICES TO PERFORM AN IMPOSSIBLE ACT. THUS, ITC CANNOT BE DENIED IN THE PRESENT CASE.

Without prejudice to above, in cases where certain suppliers have not filed their GSTR-3B, it is submitted that the Noticee has evidenced the proof of payment of GST amount to the suppliers, and the onus to make payment of the GST amount is with the suppliers.

The Noticee most humbly submits that Section 16(2)(c) of CGST Act, imposes a condition on the recipient of goods or services to verify whether the supplier has deposited tax collected on the goods or services supplied by him with the Government.

Without prejudice to above, it is submitted that there is no mechanism for the recipient of goods or services to verify whether tax has actually been paid by the supplier to the Government. The GST portal merely displays return filing status of a registered person. It is submitted that return filing status in no manner enables a person to verify whether the supplier has included invoices pertaining to the said recipient of services in his return and paid applicable tax thereon.

In this regard, it is relevant to refer to latin maxim *lex non cogit ad impossibilia* which means that law does not compel a person to do the impossible. It is not possible for the recipient of goods or services to comply with the condition stipulated in Section 16(2)(c) as it requires the recipient to perform an act which cannot possibly be done.

Reliance is placed on the decision of the Calcutta High Court in the case of **Sanchita Kundu & Anr. v. The Assistant Commissioner of State Tax, Bureau of Investigation, South Bengal & Ors.** [2022

(5) TMI 786] wherein it was inter alia held that benefit of ITC cannot be denied when transactions are genuine and supported by valid documents.

Therefore, since the Noticee has complied with all the other substantial conditions stated in Section 16 of CGST Act for availing ITC, the benefit of ITC cannot be denied to the Noticee on account of non-compliance of Section 16(2)(c) of the CGST Act. Accordingly, it is submitted that the impugned SCN is liable to be set aside.

EQUATING THE TERM 'RECEIVED' WITH 'PHYSICAL' RECEIPT IS WRONG AFTER-EFFECT OF EXCISE LAW JURISPRUDENCE.

Under the Central Excise regime, the terms 'physical removal' and 'clearance' were given much importance as excise duty was payable at the time of removal of excisable goods from the factory of the manufacturer-assessee.

Similarly, the rules under the Central Excise regime also provided that it is the duty of the assessee to see that the goods (inputs or capital goods) which have been procured under cover of the excise invoice have suffered excise duty and that such goods are physically received in the factory as per the invoice. This is supported by Rule 4(1) of the erstwhile Cenvat Credit Rules, 2004 (hereinafter referred to as "CCR") which provides the condition for allowing the cenvat credit in case of inputs and Rule 4(2)(a) ibid which provides condition for allowing the cenvat credit in case of capital goods. Both the rules are extracted as under for ease of reference:

"Rule 4. Conditions for allowing CENVAT credit. –

(1) The CENVAT credit in respect of inputs may be taken immediately on receipt of the inputs in the factory of the manufacturer or in the premises of the provider of output service or in the premises of the job worker, in case goods are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be:

.....
(2)(a) The CENVAT credit in respect of capital goods received in a factory or in the premises of the provider of output service or outside the factory of the manufacturer of the final products for generation of electricity for captive use within the factory, or in the premises of the job worker, in case capital goods are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be at any point of time in a given financial year shall be taken only for an amount not exceeding fifty per cent. of the duty paid on such capital goods in the same financial year:
.....

Perusal of Rule 4(1) and Rule 4(2)(a) of CCR 2004 reveals that a manufacturer was entitled to take cenvat credit in respect of inputs or capital goods only when such inputs or capital goods were physically received in the factory. It is clear that the concept of physical receipt while interpreting GST law is flowing from the central excise jurisprudence.

However, under the CGST Act and the CGST Rules, there is no such condition which mandates that a registered person shall avail ITC on inputs/capital goods only after physically receiving them.

Conceptually, the GST laws are very different from the Central Excise law. Hence, while interpreting GST laws, the mind of the reader should be conscious of the legal position that importing jurisprudence of earlier law while reading current law is fraught with extreme danger.

Therefore, it is submitted that under the CGST Act read with the CGST Rules, physical receipt of goods is not a requisite condition for availing ITC. Without prejudice to anything submitted hereinabove, the Noticee submits that ITC can be availed on the basis of a tax invoice without physical receipt of goods as well.

It is submitted that concepts like removal and clearance were relevant during the Central Excise regime because excise duty was payable on removal/clearance of goods from the factory of a manufacturer. These concepts are not relevant under the GST regime as GST is payable on supply of goods.

The Noticee in this regard submits that Section 16(2) of the CGST Act itself allows the availment of ITC even in a case where there is no physical receipt of goods. Explanation to Section 16(2)(b) of the CGST Act reads as under: “(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, –*

....

(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 to goods or otherwise”

The said explanation provides that where goods are delivered by the supplier to any other person, whether acting as an agent or not, upon the direction of the registered person, and where such delivery occurs either through transfer of documents of title to goods or otherwise, the registered person is deemed to have “received” such goods for the purpose of the clause (b) of sub-section (2) of section 16 of CGST Act. accordingly, in cases where goods are delivered by the supplier to the registered person, either directly or to any other person on the directions of the said registered person, the registered person shall be considered to have “received” the said goods for the purpose of clause (b) of sub-section (2) of section 16 of CGST Act.

In the present case, clearly, since the goods were supplied on "Bill to ship to" basis, the goods have been deemed to be received by the Noticee in terms of Explanation to Section 16(2)(b) above.

Thus, under GST law, as per the above submission, actual physical receipt of goods is not a requirement for availment of ITC. Equating supply of goods with physical removal/receipt of goods is a wrong after-effect of excise law jurisprudence. In view of the above submissions, the impugned SCN is erroneous and liable to be set aside.

TRANSFER OF TITLE IN GOODS IMPLIES ACTUAL DELIVERY OF GOODS

At this stage, it is relevant to refer to the provisions of the Income Tax Act, 1961 which defines "Speculative transaction" in Section 43(5). Relevant provisions of the Section are reproduced below:

"43. Definitions of certain terms relevant to income from profits and gains of business or profession.

... (5) "speculative transaction" means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips..."

...Emphasis Supplied

The condition for treating a transaction as speculative is that the settlement should be otherwise than "Actual delivery". This has been so held by the Supreme Court in **Davenport & Co. (P.) Ltd. Vs. CIT - 1975 (100) ITR 715 (SC)**, where the transaction involving mere transfer of delivery notes and not actual delivery of goods was considered as speculative transaction. The Supreme Court in **Davenport & Co (supra)** overruled a 2-judge bench of the Supreme Court in **Raghunath Prasad Poddar Vs. CIT - [1973] 90 ITR 140 (SC)** wherein it was held that even the constructive delivery of goods would also be excluded from the preview of being speculative in nature. Extract of relevant para from the judgement is reproduced below:

"Explanation 2 defines a speculative transaction as a transaction in which a contract for purchase and sale of any commodity is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity. The words "actual delivery" in Explanation 2 mean real as opposed to notional delivery. For income-tax purposes speculative transaction means what the definition of that expression in Explanation 2 says. Whether a transaction is speculative in the general sense or under the Contract Act is not relevant for the purpose of this Explanation. The definition of "delivery" in section 2(2) of the Sale of Goods Act which has been held to include both actual and constructive or symbolical delivery has no bearing on the definition of speculative transaction in the Explanation. A transaction which is otherwise speculative would not be a speculative transaction within the meaning of Explanation 2 if actual delivery of the commodity or the scrips has taken place; on the other hand, a transaction which is not otherwise speculative in nature may yet be speculative according to Explanation 2 if there is no actual delivery of the commodity or the scrips. The Explanation does not invalidate speculative transactions which are otherwise legal but gives a special meaning to that expression for purposes of income-tax only. The Tribunal and the High Court correctly held that the transaction in question was speculative transaction."

(emphasis supplied)

The Andhra Pradesh High Court in **CIT Vs. Lakshminarayana Trading Co. – 1996 (219) ITR 90 (AP)** interpreted the phrase ‘transfer of commodity’ to mean ‘transfer of property in goods’ and hence a transaction of purchase or sale of goods would not be regarded as ‘speculative’ where the property in the goods is passed to the seller by way of endorsement of railway receipt. Relevant portion from the judgement is reproduced below:

“The difficulty arises in construing the phrase ‘otherwise than by actual delivery or transfer of the commodity or scrips’ in the definition in section 43(5). Having regard to the wording as stated above, the intention is not to allow buying up of speculative losses and to permit setting off of speculative losses against income earned from other speculative business. If in the course of the business transactions of sales and purchases of any goods, each transaction is different and the ultimate purchaser and not the intermediate purchaser has received the goods, the transaction would fall within the meaning of speculative transaction. But if there has been successive sales of the same commodity coupled with delivery or transfer of the commodity and the physical delivery is only taken by the ultimate purchaser, the transaction does not fall within the sweep of speculative transaction. For example, if A sells certain commodity to B and transfers possession of the commodity by parting with the commodity either by putting the commodity on the carrier, rail or any other transport and on the way B, the purchaser, sells the commodity to some third party C, the purchase by the first purchaser B cannot be treated as speculative transaction for the simple reason that the delivery or transfer of the commodity contemplated under section 43(5) has taken place.

Under the Sale of Goods Act such delivery can be made either by physical delivery of the commodity directly to the purchaser or to the carrier for him or by transferring the document of title to the commodity. In the expression ‘otherwise than by actual delivery or by transfer of the commodity’ these two modes of delivery must be contemplated. Taking this expression along with the phrase ‘settled periodically or ultimately’ would mean that in such a settlement of the contract delivery of the commodity is never contemplated at all. In other words, speculative transactions are such that the parties never contemplate delivery of the commodity but only trade in the documents of title.

Where the nature of transaction entered into between the parties is such that under the contract the seller parts with the possession of the goods and while the goods are in transit the buyer enters into subsequent transaction, then so far as the first seller and first buyer are concerned, there would be actual delivery of the goods as the first seller had parted with the possession of the goods and handed them over to the carrier which would amount to delivery to the buyer, the transaction cannot be regarded as a speculative transaction.

There would, thus, be transfer of commodity to the buyer in the instant case when the assessee endorsed the railway receipt and sold consignment in favour of ‘P’ and the transaction would be out of the mischief of section 43(5).”

From the aforesaid decisions, it is clear that the transaction of purchase or sale of goods wherein the transfer of title in goods takes place, will amount to actual delivery of goods. As submitted above, there was transfer of title/ownership in goods by way of sale/supply between the suppliers and the Noticee.

Hence, the Noticee has correctly availed the ITC amounting Rs.12,38,96,621/- on the purchase of goods from the suppliers, wherein the consideration for the supply was made against the tax invoices raised by the supplier with transfer of ownership of the goods.

Furthermore, it is submitted that the ITC amounting Rs.12,38,96,621/- has been availed on the supplies procured from the suppliers mentioned above of the Noticee. It is submitted that there was no supply between the Noticee and the alleged non-existent entities serving as vendors/suppliers to the suppliers of the Noticee. Thus, the demand of reversal of ITC is untenable in law and liable to be dropped.

It is submitted that ITC has been availed on the basis of invoices issued by the suppliers of the Noticee. Furthermore, it is emphasized that no supply of inputs has taken place from the non-existent entities to the Noticee. Furthermore, in case such non-existent entities are unregistered entities (post their registration cancellation) under GST law, then there cannot be any question of availment of ITC by the Noticee against supplies from an unregistered person.

The impugned SCN states that the suppliers of the Noticee procured materials from various suppliers that have been found to be non-existent entities by the Intelligence authorities. However, no evidence has been placed on record to substantiate the claim that the ITC availed by the Noticee with respect to the supplies between the Noticee and the suppliers, is not genuine. Furthermore, no evidence has been provided to establish that the ITC availed by the Noticee is based on supplies related to such non-existent invoices.

Therefore, it is submitted that the ITC under scrutiny has been availed on the basis of invoices issued by the suppliers for the supply of input goods, in strict compliance with Section 16 of the CGST Act. Accordingly, the demand for reversal of ITC, as well as the impugned SCN, is liable to be set aside.

THE NOTICEE IS NOT LIABLE TO REVERSE THE ITC ON SUPPLIES PROCURED FROM SUPPLIERS WHOSE REGISTRATION WERE ACTIVE AT THE TIME OF AVAILMENT OF THE ITC AND WERE CANCELLED SUBSEQUENTLY WITH RETROSPECTIVE EFFECT.

The impugned SCN has relied on Section 16(1) of the CGST Act to state that since the suppliers of the Noticee do not hold an active GST registration, therefore the ITC availed by the Noticee is incorrect and liable to be reversed.

Section 16(1) of the CGST Act mandates both the recipient and the supplier to be registered under GST law, for the recipient to correctly avail ITC. Accordingly, the impugned SCN states that if the supplier's registration has been cancelled suo moto, in such case, the supplier would not qualify as a "registered person" rendering violation of Section 16(1). In other words, if the supplier is unregistered or de-registered, the ITC passed on by the said suppliers shall be ineligible and inadmissible. Thus, the recipient must substantiate the eligibility of ITC claimed by establishing the authenticity and registration status of the suppliers.

In this regard, the Noticee submits that the suppliers were holding active GST registration at the time of supply. It is submitted that the suppliers at the time of the supply held active registration, paid the tax, and reported the supplies in their monthly and annual returns. The GST registration of the suppliers have been cancelled with suo moto application, as mentioned herein below with its effective date of cancellation, obtained from GST portal. Accordingly, the ITC availed by the Noticee

is in accordance with Section 16 of the CGST Act.

Name of the Suppliers	Suo moto Cancellation date on GST Portal
M/s. Ganpati Traders, Silvassa GSTIN- 26AHIPP8549A1Z6 (registration date: 10.09.2019)	GSTIN status- Cancelled on application of taxpayer (effective from 30.04.2022)
M/s. Krishna Industries, Silvassa GSTIN-26ALEPP9431H1ZW (registration date: 26.02.2019)	GSTIN status- Cancelled on application of taxpayer (effective from 08.04.2021)
M/s. Raghav Industries, Silvassa GSTIN-26BQWPS1030BIZX (registration date: 14.03.2018)	Cancelled on application of taxpayer (effective from 15.10.2024)

As per the facts of the present case, the concerned suppliers raised invoices on the Noticee and the amount relating to these invoices are reflecting in GSTR-2A of the Noticee. A summarized copy of the sheet encapsulating the details of invoices as per GSTR-2A of the Noticee is enclosed as **Annexures- 8, 14, & 20.**

It is clear from the sheet enclosed above, that in the instant case, a total amount of GST had been accounted for as inward supplies from the suppliers in question, in GSTR-2A of the Noticee based on which the Noticee has availed ITC. Thus, the concerned suppliers were active at the time of making these supplies, as their GSTR-1 has been filed leading to reflection of supplies in the Noticee's GSTR-2A.

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Hence, it is submitted that there is no wrongful availment of ITC in the instant case by the Noticee.

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Post facto GST registration cancellation of the concerned suppliers, will not disentitle the Noticee, of the ITC availed in good faith and valid invoices.

The Noticee submits that the GST registration of the suppliers were active at the time of supply and availment of ITC by the Noticee. Furthermore, it is submitted that the GST registration were cancelled on suo moto application. Thus, it is humbly submitted that the Noticee has availed the ITC in accordance with Section 16 of the CGST Act, and ITC cannot be denied to the Noticee merely on the ground that the GST registration was cancelled subsequently.

The Noticee had availed the ITC based on valid invoices. The Noticee had received the goods/services and paid the consideration to concerned suppliers through normal banking channels. Further, the concerned suppliers had filed the relevant GST returns in Form GSTR-1 and GSTR-3B, and also deposited the tax collected from the Noticee to the Government. The same is

reflected in the Noticee's GSTR-2A for the relevant period. Therefore, the Noticee had satisfied all conditions necessary for availing input tax credit under Section 16(2) of CGST Act. SCN also states this fact.

It is submitted that even if for sake of argument, it is considered that the supplier is allegedly involved in fraudulent activities, a recipient of supply should not be responsible for the fault of the vendor who has not discharged tax or is involved in fraudulent activities. It means it has not been appreciated that denial of ITC for some alleged post facto cancellation of the selling dealer's registration is not and cannot be warranted under the law.

Reliance in this regard is placed on the judgement in the case of **Sanchita Kundu & ANR. - 2022 (5) TMI 786 - Calcutta High Court**, wherein by relying on the judgement in the case of LGW Industries v/s. UOI - 2021 (12) TMI 834, it was held that in case the transactions basis which ITC is availed by the purchaser is genuine and supported by valid documents and transactions in question were made before the cancellation of registration of the suppliers then the ITC credit should not be disallowed to the purchaser. The principle of the aforementioned cases is squarely applicable even in case the matter was remanded back for examination of facts on the basis of ratio or ruling established in the judgments mentioned herein.

In the case of **Onyx Designs Vs. CCT - 2019 (6) TMI 941**, the Hon'ble Karnataka High Court held in absence of any other allegations made against the purchasing dealer in the assessment orders, merely for the reason that selling dealers had not deposited the collected tax amount or some of the selling dealers had been subsequently deregistered could not be a ground to deny the input tax credit.

The Noticee also places reliance upon the judgment of the Hon'ble Uttarakhand High Court in the case of **Subhash Singh v. Deputy Commissioner, State GST - 2024 (5) TMI 914** wherein the Hon'ble High Court granted relief to the Noticee after observing that the invoices of sale made to the suppliers are with the Noticee, and on the basis of the invoices the payments were made and it was the duty of the suppliers to file their returns.

Further reliance is placed on the following decisions:

- **Gargo Traders v/s. CCT - 2023 (6) TMI 533 - Calcutta High Court**
- **Balaji Exim v/s. Commr. CGST - 2023 (3) TMI 529 - Delhi High Court**

As a settled position under the erstwhile regime, various High Courts and Supreme Court had categorically held that it would be unreasonable and unrealistic to expect the buyer of service to go and verify the records of the supplier. The ratio of the aforesaid judgments will equally apply in the

present case as well, on account of similar provisions in the GST law.

It is submitted that at a particular time of sale and purchase transactions, the purchaser had no knowledge that the registration certificate of the selling dealer may be cancelled long after such transaction of purchase. It is quite impossible on the part of the purchaser to verify the validity of the registration certificate of the seller; submission of return by them or the amount credited in favour of the Department by them. Such impossibility cast upon the purchaser is unreasonableness and therefore is unconstitutional.

Further, it is submitted that there is no mention in the entire CGST Act and Rules made thereunder that on ab-initio/suo-moto cancellation of the registration of the selling dealer, the corresponding recipient would not be liable to avail ITC. In fact, inclusion of any such provision in the CGST Act would have made the Act violative of Article 14 of the Constitution of India.

Thus, the contention of the department to deny ITC of Rs. 12,38,96,621/- is not maintainable. Accordingly, demand to the extent of Rs. 12,38,96,621/- is liable to be dropped.

The Noticee submit that they have satisfied all of the conditions of Section 16(2) of the CGST Act before availing ITC in respect of the tax invoices issued by the suppliers. The Noticee is submitting herewith, all relevant supporting documents such as copy of tax invoice, copy of supply/service receipt vouchers, proof of payment and entries in GSTR-2A to establish their claim for ITC in respect of the supplier in question. The Noticee submits a detailed excel sheet consisting of details of supply, name of supplier, and the date of cancellation of the registration, and the status of filed GSTR-3B substantiating payment of tax, as Annexures- 23.

In light of the aforementioned submissions, it is conclusively established that tax in respect of aforesaid invoices issued by these suppliers during the relevant months was duly paid to the Government. Therefore, the denial of ITC on the basis that the registrations of these suppliers were cancelled later on and drawing an assumption from such cancellation that no tax must have been paid by the supplier prior to cancellation of registration, is unsustainable. The demands proposed on such assumption is liable to be dropped as allegation to deny credit merely on the basis of assumptions and conjectures cannot be the valid reason to deny credit to the Noticee. Accordingly, the impugned SCN is liable to be set aside.

ITC is a substantive right. ITC AVAILED BY THE NOTICEE AGAINST THE TAX INVOICES AND CORRELATED E-WAY BILLS AND CONSIGNMENT NOTES CANNOT BE DEMANDED TO BE REVERSED ON ACCOUNT OF ERROR ACCOUNTED BY THE SUPPLIER IN THE LORRY RECEIPTS.

The impugned SCN states that the Noticee has availed ITC without receipt of goods as the transporters have incorrectly mentioned their address on the lorry receipts rendering the transaction as “non-genuine.” On a search conducted by the Intelligence authorities at the registered premises of the suppliers in table-1, it was found that no such entities operated and existed to carry out their business operations from such addresses. Basis the said visitation, it has been held that there was no supply made between the Noticee and the suppliers. Accordingly, the impugned SCN has confirmed the demand for reversal of ITC on the basis that the Noticee has violated the condition prescribed in Section 16(2)(b) of the CGST Act.

The Noticee submits that it has received the goods against which the aforementioned ITC has been availed in compliance with Section 16(2)(b) of the CGST Act. The Noticee submits details of invoices, respective e-way bills with vehicle numbers, to substantiate the genuineness of the supplies.

The Noticee has procured input goods from the list of genuine tax paying suppliers. The suppliers mentioned in the annexure have raised tax invoices and generated E-way bills for supply of goods to the Noticee. The goods were delivered to the Noticee in the duly registered vehicles whose information is available on the Vahan portal.

The Noticee submits that whether or not, the suppliers or the transporters operate from the visited premises on the dates provided in table -3 and table-4, is immaterial to the validity of the claim of ITC. At the time of supply, between the Noticee and the suppliers, the premises visited by the Department, had been the principal place of business, however, the guarantee for the said premises to be the principal place of business is not a material condition for availment of ITC. Furthermore, merely because the post office couldn't deliver the summons on the provided address of the transporter agency cannot automatically lead to the presumption that the transporters do not exist at the given address. In any case, the said non-delivery of documents via post cannot render question on the eligibility of ITC and genuineness of business operations of the Noticee.

It is also evident from the date of suo moto cancellation of registration of the suppliers, that the place of business as informed on GST portal prior to cancellation would not be the same at the time of summon/search. It is erroneous and baseless to render business as non-genuine on account of search operations conducted in the present date for businesses which operated prior to FY 2024/2021/2022, i.e. prior to the date of cancellation as mentioned below; thus, the basis of demand itself is unreasonable.

Name of the Suppliers	Suo moto Cancellation date on GST Portal
M/s. Ganpati Traders, Silvassa GSTIN- 26AHIPP8549A1Z6 (registration date: 10.09.2019)	GSTIN status- Cancelled on application of taxpayer (effective from 30.04.2022)

M/s. Krishna Industries, Silvassa GSTIN-26ALEPP9431H1ZW (registration date: 26.02.2019)	GSTIN status- Cancelled on application of taxpayer (effective from 08.04.2021)
M/s. Raghav Industries, Silvassa GSTIN-26BQWPS1030BIZX (registration date: 14.03.2018)	Cancelled on application of taxpayer (effective from 15.10.2024)

It is submitted that the impugned SCN has merely correlated the address from the lorry receipts with the official address of the transporters. In this regard, the Noticee submits that such comparison is baseless and without any substantive proof.

The Noticee submits that it has correctly availed ITC on the basis of tax invoices raised by its supplier. In this regard, the Noticee has already enclosed the cumulative set of invoices, e-way bills and consignment note as annexures to substantiate that it has received the goods and abided by the condition of Section 16(2)(b) of the CGST Act.

Therefore, the Noticee submits that the inadvertent error on the part of the supplier is merely a technical error/procedural lapse. Further, it is submitted that the Noticee cannot be held responsible for the clerical mistake committed by the supplier/transporter, while preparing the transport documents. Reliance in this regard is placed on the decision of **Commissioner of Central Excise & ST, Daman vs. Metal Gems, 2023 (10) TMI 223 - CESTAT AHMEDABAD**, wherein wrong mentioning of vehicle numbers in duty paying documents including the transport receipt, was held to be a clerical mistake and denial of credit under the erstwhile Central Excise regime was held to be not sustainable in the absence of any corroborative evidence to allege clandestine removal of goods.

Without prejudice to above, it is submitted that even in cases where the suppliers have erred in mentioning the correct address of place of dispatch, in such case, it is merely a procedural lapse encountered by the supplier. Accordingly, it is submitted that it is settled law that procedural lapse cannot be ground to deny substantive right, i.e., ITC. As the substantial conditions relating to eligibility of credit are complied with, the procedural requirements should not deny the substantial benefit.

Reliance is placed on the Hon'ble Supreme Court case in the matter of **Mangalore Chemicals and Fertilizers Ltd. [1991 (55) E.L.T. 437 (S.C.)]** wherein it was held that non-observance of the procedural condition is condonable while that of the substantive condition is not condonable. The Apex Court clarified that a substantive condition would be the one which is based on considerations

of policy whereas the procedural condition would merely belong to the area of procedure. It would be erroneous to attach equal importance to the non-observance of all the conditions irrespective of the purposes they were intended to serve.

The proposition of law that a mere procedural lapse cannot take away a substantive benefit has been reiterated in the following cases:

- **Grasim Industries Ltd. - [2006 (204) ELT 230 (Raj)].**
- **Kamakhyia Steel Ltd. vs. CCE, 2000 (121) ELT 247 (Tri-Mumbai)**
- **Archana Syntex Ltd. V. CCE, 2005 (191) E.L.T. 545 (Tri. - Mumbai)**
- **Aadithya Chemicals v. CCE, Chennai, 2005 (191) E.L.T. 530 (Tri. - Chennai)**

Hence, the Noticee is not liable to reverse the ITC on account of error committed by the transporters or suppliers and baseless comparison created by the impugned SCN as the said error or comparison only amount to procedural lapse. Therefore, the impugned SCN is liable to be set aside.

The department in the present case, completely misconstrued the facts of the matter and wrongly stated that there is no movement of goods. The department failed to appreciate the documents submitted during the course of investigation and practice followed by the Noticee.

The Noticee submits that the department in the present case, has misconstrued the facts of the matter and documents submitted by the Noticee during the course of investigation. The department in the impugned SCN has stated that there is no movement of goods from the supplier to the Noticee, therefore there is no supply of goods. Accordingly, the Noticee is not eligible to avail ITC on invoices, wherein there is no movement of goods.

The Noticee submits that before doing transactions from the suppliers, the Noticee undertakes background check of the suppliers. The Noticee undertakes following steps:

- (a) Check their registration details from the portal to ensure that the said firm is active or cancelled.
- (b) The Noticee also ask suppliers to submit GST/Income tax returns, Aadhar card, PAN card and bank verification letter.
- (c) Also, in cases when ITC amount is not reflected in our GSTR-2A, the Noticee hold the payment of such suppliers.

The Noticee submits that the Noticee's customers had physically received material along with invoice, lorry receipt and E-way bill wherever applicable and also payment for the same has been made to the respective suppliers through RTGS/NEFT. The copy of the lorry receipt, E-way bills are sufficient evidence to substantiate that the Noticee had received the goods at their factory premises. All these party wise documents are already annexed as **Annexures 6, 12, 18**

The Noticee submits that during the course of investigation, the Noticee had submitted all the evidence mentioned above for the supplies received from the suppliers in dispute, which are sufficient evidence to state that the Noticee had physically received the goods at the factory premises. However, the department failed to appreciate these documents and merely stated that there is no movement of goods. It is important to note that the department did not provide any support to their allegation for non-movement of goods. However, the Noticee had submitted series of evidence in their support.

Hence, the Noticee submits that the department had issued the impugned SCN, just for the sake of denying credit without any logical reasoning. The present impugned SCN has been issued based on the assumption and presumption of the department, without any documentary evidence in support. The fallacy in issuance of the present impugned SCN is also evident from the fact that it is vague, and the department has grossly failed in discharging its burden of proving contravention of legal provisions in facts of the present case. In fact, the demand proposed in the impugned SCN and allegations made therein are in complete ignorance of facts of the present case.

It is submitted that the impugned SCN is the foundation of any proceedings, and such notice must clearly indicate and provide an impression to the Noticee of the basis on which liability is stated, so as to provide him an opportunity of contesting the assertion and submitting his defense, if any. The burden of proving something is on the one alleging it. In the context of GST demands, the burden of proving, that the ITC on certain receipts is not eligible to the Noticee in the manner claimed by the department, is on the department.

Further, the impugned SCN forms the basis for any demand and thus, it has to be self-contained and self-explanatory. In sum, thus, where any demand on account of ineligible ITC is proposed by issuance of impugned order, the burden of proving such ineligibility is on the department, which it must discharge in the impugned SCN itself.

Thus, the present impugned SCN is liable to be set aside on this ground itself.

The Noticee has SUBMITTED DOCUMENTARY EVIDENCE TO ESTABLISH ITS CLAIM OF ITC BEYOND THE REASONABLE DOUBT AND STANDARDS OF PREPONDERANCE OF PROBABILITIES.

The Noticee is challenging the allegation of the impugned SCN wherein the Noticee's claim of ITC has been denied on the alleged ground of failure to establish its claim beyond the reasonable doubt or the standard of "preponderance of probabilities." It is respectfully submitted that such a conclusion is erroneous, arbitrary, and contrary to the principles of law, as the Noticee has furnished

sufficient documentary evidence to substantiate its claim of ITC by way of compliance with Section 16 of the CGST Act.

The impugned SCN has been passed in complete disregard of the evidence placed on record by the Noticee. The following aspects highlight the absence of a reasonable evidentiary basis for denying the claim:

The Noticee has furnished all requisite documentary proof, including tax invoices, GSTR-2A reconciliations, payment proofs, and corresponding e-way bills, lorry receipts, weighment slips, reports of gate register, demonstrating that the transactions were genuine, tax-paid, and eligible for ITC. The impugned SCN has not disputed the authenticity of these documents but has merely disputed inadvertent error encountered in issuance of invoices and correlated e-way bills by the suppliers.

The Ld. Commissioner has failed to bring on record any cogent evidence to disprove the veracity of the Noticee's claim. Mere conjecture or assumption cannot substitute for legal evidence, and the burden was on the Ld. Commissioner to establish that the claim was fictitious or non-genuine, which has not been discharged.

The denial of ITC without appreciating the documentary evidence submitted by the Noticee amounts to a violation of the principles of natural justice, particularly the right to a reasoned decision based on material evidence.

The doctrine of preponderance of probability requires a finding to be based on a comparative assessment of evidence from both sides. However, in the present case:

- a. The Noticee has discharged its burden by submitting corroborative evidence substantiating its claim. The evidence consist of documents in records of the Noticee as well as the suppliers.
- b. The Ld. Additional Commissioner has failed to bring forth any countervailing evidence to suggest falsity or fabrication.
- c. In the absence of any rebuttal, the Noticee's evidence ought to have been accepted rather than rejected on mere presumptions.

Reliance is placed on **K.V. Lakshmi Savitri Devi v/s. ACIT [(2012) 148 TTJ 157]**, wherein it was held that where documentary evidence sufficiently establishes a claim, the mere absence of additional corroborative proof cannot be a ground for denial.

In light of the foregoing, the impugned SCN is liable to be set aside, as it suffers from a fundamental legal flaw—denial of ITC in the absence of contrary evidence, verification of the submitted evidence and misapplication of the preponderance of probability standard or doctrine of reasonable doubt.

The Noticee has sufficiently demonstrated its entitlement to ITC, and therefore, the relief sought ought to be granted.

The Noticee availed and utilized ITC on receipt of goods from THE SUPPLIERS. Further, there is no allegation that the consideration paid by Noticee to THE SUPPLIERS has flown back from to the Noticee.

As stated in the facts portion of the case supra as well as insubmissions made in paras above, all the transactions entered into between the Noticee and the suppliers, were genuine. All the supporting documents in this regard were present and placed on record. The above facts clearly show that the Noticee had received goods from the supplier and had not availed and utilized alleged fake ITC from the suppliers.

It is further submitted that according to the department, the Noticee had availed ITC merely on the basis of invoices without receipt of goods. However, as an undisputed fact, the Noticee had made payments to the suppliers, along with applicable GST. In turn, the suppliers had also paid GST on all these supplies.

In such a case, an obvious question arises as to why the payment of full amount was made if the goods were not received. It is pertinent to note that the department had not raised any allegation that the suppliers have returned the money back to the Noticee or that there is any flow back of money to the Noticee in any manner.

It has been consistently held by various forums that in absence of evidence suggesting 'flow back of money', the charges cannot be sustained. On this point, kindly refer to the following case laws:

- a. **Gaurav Mungad Vs. CCE, Bhopal - 2021 (376) ELT 69 (T)]**
- b. **P.P. Oxide Vs. CCE, Faridabad - 2015 (329) ELT 16 (P&H)]**
- c. **Arvind Enterprises Vs. CCE, Delhi-IV - 2013(296) ELT 253 (T)]**
- d. **CCE, Chandigarh Vs. Ashoka Steel Corp. - 2014(306) ELT 666(T)]**

In view of the above, the allegation of the department is baseless, and the present SCN is liable to be dropped.

WITHOUT PREJUDICE, REASSESSMENT CANNOT BE CARRIED OUT AT THE RECIPIENT'S (I.E., THE NOTICEE) END. THE NOTICEE IS ENTITLED FOR AVAILMENT OF ITC OF GST PAID IN ACCORDANCE WITH SECTION 16 OF THE CGST ACT.

In the instant case, the suppliers were registered with the GST department. The suppliers have

raised invoices along with GST thereon on the Noticee in terms of Section 31 of the CGST Act. The Noticee has paid GST thereon to the said suppliers and availed ITC of tax paid on the strength of the aforesaid invoices along with fulfilment of conditions prescribed in Section 16 of the CGST Act.

In view of the aforesaid undisputed facts, it is not permissible for the department to deny credit on GST in as much as the Noticee has fulfilled all the conditions laid down under the CGST Act, 2017, for the purpose of availment and utilization of ITC.

It is submitted that the assessment cannot be disputed at the recipient end. The Noticee are entitled for availment of ITC of GST paid based on the invoices. In this regard, reference is made to the case of **Modular Auto Ltd. Vs. CCE - 2018 VIL 541 MAD ST** wherein the Hon'ble High Court held that the credit cannot be denied at the recipient's end without opening the assessment at the service provider's end.

The brief facts of the said case are that the petitioner therein had availed input service credit on "Multi-Protocol Label Switching" (MPLS) service based on the invoices issued by M/s. Brakes India Ltd., Chennai ("M/s. BIL" for short). The petitioners were job workers for M/s. BIL. The services were utilized by M/s. BIL for communicating and retrieving the data from the petitioners therein. The department alleged that the services were rendered by BSNL and Reliance Communications Ltd. to M/s. BIL and that M/s. BIL had raised invoices on the petitioner claiming reimbursement under these invoices as MPLS charges along with service tax. The department was of the view that the invoices were raised for reimbursement of expenses and that no service was rendered by M/s. BIL to the petitioners and that the petitioners were not eligible for credit. The Noticees therein had contended that M/s. BIL are retrieving data relating to the assesses from the server and are further processing the same for their end use and therefore, M/s. BIL is rendering the service. It was also explained by the petitioners therein that but for M/s. BIL retrieving the data, the petitioners would have retrieved the data and passed on the same to M/s. BIL. The Hon'ble High Court, after analysis of the issue, observed as under:

"15. From the reasons assigned by the Commissioner (Appeals), we find that the Commissioner (Appeals) has travelled beyond the scope of allegation made in the show cause notices. By giving a different interpretation to the nature of transaction, which, in our considered view, could not have been done by the Appellate Authority in the light of the settled position with regard to the Service Tax liability admitted and paid by BIL. Therefore, unless and until, the assessment on BIL had been reopened, the nature of transaction as referred by BIL has to be held to be wrong and the Commissioner (Appeals) could not have given a different interpretation to the nature of claim made by the BIL from the assessee by interpreting the terminology used in the invoice. The correct test, which ought to have been applied by the Adjudicating Authority, Appellate Authority and the Tribunal, is as to what is the character of payment made by the assessee on which they have availed the CENVAT credit.

16. In the instant cases, it is not in dispute that whatever the portion of Service Tax component which was collected from the assessee by BIL was only the amount on which the CENVAT credit has been claimed by the assessee. Therefore, unless and until the assessment made on BIL was revised, which obviously could have been done, at this juncture, on account of the expiry of the period of limitation, the interpretation given by the Commissioner (Appeals) as well as the Tribunal with regard to the nature of invoice raised on the assessee is unsustainable. Furthermore, we find that the reason assigned by the Tribunal in paragraph 6.2

stating that the activity performed by the BIL for monitoring of production activities of the assessee cannot by any stretch of imagination be considered as an input service or in relation to the manufacture of final products of the assessee, is a statement, which is unsubstantiated by any record. At best, it can be taken as a personal opinion of the Tribunal, which could not have been a reason to reverse the credit availed by the assessee.

17. What is important to note that the assessee's specific case is that there has been a service by BIL to the assessee in the matter of retrieval of data and service tax has been collected and paid by BIL and the correctness, legality or otherwise of the tax paid by the subject providers cannot be called in question by the Central Excise Officer having the jurisdiction over the assessee availing the credit. This question has not been considered. If the impugned orders are allowed to stand, then it would in effect mean that the jurisdictional assessment officers of the assessee are sitting in the judgment over the assessment made on BIL, over which, they have no jurisdiction."

...**Emphasis supplied.**

Following the ratio laid down in the judgment of the Hon'ble Madras High Court in case of **Modular Auto Ltd.** (supra), recently, the Hon'ble Telangana High Court dismissed the department's appeal in case of **Commissioner v. Connect Business Solutions Limited, 2024 (6) TMI 908 - TELANGANA HIGH COURT**. The transaction in dispute in the said case is similar to the transactions in dispute in the present case. Relevant extracts from the same are herewith reproduced as under-

"9. ...

A plain reading of the findings in this order leaves no room for any doubt. The respondent filed invoices and returns before their jurisdictional offices and paid the service tax arising out of it. The Tribunal clearly held that even in the show-cause notice, there was no allegation that the services rendered under these invoices were not falling within the ambit of Rule 2(I) of the CCR 2004. We find substance in the finding of the Tribunal. In absence of making specific allegation in the show-cause notice, the Noticee cannot be permitted to make out a new case on facts while passing the final order. The invoices and returns were necessary documents which were admittedly filed before the Jurisdictional Officer. Thus, necessary formalities and compliances were made by the respondent.

10. The argument of Sri Dominic Fernandes is based on certain recorded statements of dealers. However, the impugned order shows that they took 'U-turn' during cross-examination. In that event, if the Tribunal has disbelieved their statements, in our opinion the Tribunal has taken a plausible view which does not warrant any interference by this Court. In other words, the said contention of the Tribunal is a finding of fact and does not involve any substantial question of law."

...**Emphasis Supplied**

Further, the Hon'ble CESTAT has allowed the appeal in **Bajaj Allianz General Insurance Co. Ltd. v. Commissioner, 2022 (10) TMI 1165**. In this case, the allegation in the show cause notice was similar to that in the present case where ITC was being denied on the services mentioned in the invoices, such as infrastructure expenses, display charges, and transaction fees, were not rendered by the dealers. The Hon'ble CESTAT held that ITC cannot be denied on the recipient's end where no reassessment has been done on the service provider's side. The Hon'ble CESTAT followed the ratio laid down in **Modular Auto Ltd.** supra and the case of **Cholamandalam MS General Insurance Co. Ltd. 2021 (9) TMI 442 -CESTAT Chennai**.

It is submitted that in the present case, the department at the end of recipient cannot hold that the supplies received were merely paper transactions and proceed to deny the ITC claimed by the Noticee.

This proposition is also supported by **Commissioner of Central Excise & Customs Vs. MDS**

Switchgear Ltd. – 2008 (229) ELT 485 (SC). Reliance is also placed on the following judgement of :

a. Sarvesh Refractories Vs. CCE – 2007 (218) ELT 488 (SC)

“5. Revenue, being aggrieved, filed an appeal before the Tribunal which was accepted by setting aside the order of the Commissioner (Appeals) and restoring that of the authority-in-original. It was held that the ‘Loadall’ having been classified by the Central Excise Officer having jurisdiction over the manufacturer’s factory as falling under Heading 84.29, the Noticee, who is the consumer of those goods, could not get the classification of the manufacturer changed from 84.29 to 84.27.

6. The finding recorded by the Tribunal is unexceptionable. We agree with the view taken by the Tribunal that the Noticee could not get the classification of ‘Loadall’ changed to Heading 84.27 from 84.29, as declared by the manufacturer. Insofar as the penalty imposed by the authority-in-original is concerned, we are of the view that a case for imposition of penalty is not made out and accordingly the same is set aside and deleted. Rest of the order of the Tribunal restoring the order of the authority-in original is confirmed.”

b. CCE Vs. Nahar Granites – 2014 (305) ELT 9 (Guj.)

“8. In terms of Rules 3 and 4 of the Cenvat Credit Rules, 2004, a manufacturer would be entitled to avail the Cenvat credit in respect of the inputs used for the manufacture of a final product or in providing taxable service of the excise duty specified in First Schedule to the Excise Tariff Act. Insofar as the respondent is concerned, he had purchased the inputs and utilised the same for manufacture of a final product. Such goods were duty paid. Rules 3 and 4 of the Cenvat Credit Rules, 2004, thus would enable him to avail the Cenvat credit. It is a different thing that the supplier of the goods to the respondent paid excise duty on such product under mistaken belief. In law as declared by the Supreme Court in case of Collector of Central Excise, Patna v. Tata Iron and Steel Co. Ltd. (supra), no duty was payable on such product. Strictly speaking therefore, such amount deposited by the original manufacturer would not partake the character of excise duty. However, when the department did not dispute the classification of such manufacturer, accepted the declarations and duties, Cenvat credit on such duty cannot be declined to the purchaser of the goods who otherwise fulfilled all conditions for availing Cenvat credit thereof.

9. Case is substantially similar to one before the Supreme Court in case of MDS Switchgear Ltd. (supra). In the said case, the Tribunal while accepting the department’s allegation of inflation of the value of intermediate goods to load the assessable value, observed that if the department was of the opinion that the value of the final product was depressed, it could have charged the original manufacturer unit in under-invoicing their product. This was however, not done. Valuation was duly approved and the payment of duty was also accepted. The Tribunal further observed that “We find absolutely no substance in the attempt of the learned Commissioner to convert a part of the duty so paid into deposit of duty. There is no legal basis for such presumption. The rules entitled the receipt manufacturer to avail of the benefit of the duty paid by the supplier manufacturer. A quantum of duty already determined by the jurisdictional officers of the supplier unit cannot be contested or challenged by the officers in charge of recipient unit.”

It is further submitted that the supplier has collected GST from the Noticee and issued proper invoices. The Noticee availed the ITC based on the proper documents. It is submitted that even when the goods supplied by the supplier is incorrect, in such case, the ITC availed by the recipient of goods, i.e., the Noticee, on the GST collected from him would be eligible for ITC. To support the contention reliance is placed on the judgement of **Ford India Pvt Ltd. Vs. CGST – 2019 VIL 182**

CESTAT CHE ST. The relevant extract is reproduced hereunder:

“7. The basis fundamental concept for availment of CENVAT credit is to avoid cascading effect of tax and it is a compensation for arrangement for the recipient of goods or services who has suffered tax or duty at the hands of the provider or supplier. The CENVAT scheme therefore allows the manufacturer or service recipient to avail the credit of duty to the extent that has been paid by the supplier or provider and in the invoices in full unless the same is restricted or barred by some other legal provision in law. The manufacturer or service recipient cannot be denied the credit only on the score that the same has been short-paid or has been paid when not required. This is the ratio that has been granted in slew of decisions of the higher appellate forums.”

The Noticee submits that the present proceedings initiated from the show cause notice cannot be

considered as a reassessment on the part of suppliers. In the impugned SCN, the department has not disputed the assessment made at the hands of the suppliers. In other words, the assessment done by all the suppliers on the very supplies/ transaction in dispute in the present case have attained finality. Therefore, having accepted the payment of GST by the suppliers on these very transactions in dispute, ITC on such GST cannot be declined to the Noticee who are recipient of such goods who otherwise fulfilled all conditions for availing ITC thereof. Hence, the impugned SCN is liable to be dropped.

The Noticee had rightly availed ITC on the material received from the suppliers. The ITC cannot be denied to the Noticee, on the ground that the supplier's supplier is fake/bogus/ non-genuine/ non-existent.

The allegation in the impugned SCN is that the supplier's supplier is fake/bogus/ non-genuine/ non-existent, therefore, the invoice raised by the supplier to the Noticee for supply of goods is incorrect. In other words, according to the department, the supplier has availed ineligible ITC on the basis of the invoices issued by fake/bogus/ non-genuine/ non-existent supplier and the same has been passed on by the supplier to the Noticee, without movement of goods. Therefore, credit is ineligible to the Noticee.

It is humbly submitted that the benefit of ITC cannot be denied to the Noticee, pursuant to default on part of its supplier, if any. It is submitted that ITC cannot be denied to the Noticee, in as much as the Noticee has paid GST to the supplier for the subject supply of goods in a bona-fide manner and the same had been deposited by the supplier to the Government Exchequer.

It is submitted that the Noticee undertakes check to verify whether the Noticee's supplier are genuine or not. However, whether the supplier's supplier is genuine and true cannot be verified and complied with by the Noticee, as it is recipient of the goods and has no privity to the supplier's supplier. Furthermore, it is well settled in law that a bonafide purchaser is entitled to avail input tax credit, even if the seller is in default.

It is submitted that in the instant case of the Noticee, just because the input tax credit passed on by the supplier's supplier to the supplier of the Noticee is alleged to be ineligible, it cannot tantamount that the ITC availed by the Noticee on the basis of the invoice raised by the supplier is also ineligible. The Noticee cannot be denied the right to avail ITC, since it binds the Noticee to do impossible act of anticipating whether supplier's supplier is genuine or not. It is submitted that the law cannot compel the Noticee for the performance of the impossible. The same has also been laid down in the Latin maxim of *Lex Non Cogitadimpossibilia*, which means that law does not expect an obligation to be fulfilled, which is impossible to fulfill.

At this juncture, it is notable that the provisions of Section 16(2) nowhere contemplate a situation wherein it is the responsibility of the Noticee, to verify the genuineness of the supplier's supplier. Without any dispute, the Noticee in the present case, had completely verified the whereabouts of the supplier. In the present case, the Noticee had duly satisfied the conditions of Section 16 of the CGST Act 2017, which is enough for availing eligible credit. Merely because, the credit availed by the supplier may be ineligible, does not mean that the credit availed in the entire chain shall be ineligible. The department ought to have verified the eligibility of input tax credit independently on the first principle itself. However, in the present case, the case is also developed by the department on the contention that the supplier's supplier is fake/bogus/ non-existent. Therefore, any objection of ineligible credit at the end of the supplier cannot lead to denial of credit to the recipient Noticee also.

In this regard, attention is invited to decision of Hon'ble Delhi High Court in **OrQuest Merchandising India Pvt. Ltd. Vs. CTT - 2018 (10) GSTL 182 (Del.)** wherein in context of Section 9(2)(g) of DVAT Act, 2002, the Hon'ble Delhi High Court held that the said restriction applies for the denial of ITC only to the those selling dealers who had failed to deposit the tax collected by them and it was not to punish the bona-fide purchasing dealers. It was held that the expression "dealer or class of dealers" occurring in Section 9(2)(g) of the DVAT Act should be interpreted as not including a purchasing dealer who has bona-fide entered into purchase transactions with validly registered selling dealers who have issued tax invoices in accordance with Section 50 of the DVAT Act, 2002 where there is no mismatch of the transactions in Annexures 2A and 2B.

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The Court also held that the purchasing dealer cannot be asked to do the impossible, i.e., to anticipate the selling dealer who will not deposit with the Government the tax collected by him from the purchasing dealer and therefore avoid transacting with such selling dealers.

Similar proposition has been upheld by the Hon'ble Delhi High Court in **Arise India Limited Vs. CTT - 2017 (10) TMI 1020**, wherein the Hon'ble High Court held that ITC cannot be denied to a bona-fide and diligent purchaser where the seller did not deposit the tax in the government account. It was also observed that such provision is violative of Article 14 of Constitution of India in as much as it treats both the innocent purchasers and guilty purchasers alike. The Special Leave Petition (SLP) filed before the Hon'ble Supreme Court against the above decision of the Hon'ble High Court of Delhi has been dismissed as reported in **2018-VIL-01-SC = 2022 (60) GSTL 215 (SC)**.

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The above said decision was relied upon in context of Karnataka Value Added Tax Act, 2003 (hereinafter referred to as 'KVAT Act') also by Hon'ble Karnataka High Court in **Onyx Designs Vs. ACCT - 2019 (6) TN 941 Karnataka High Court**, where it was held that the benefit of ITC cannot be

deprived to the purchaser dealer, if the purchaser dealer satisfactorily demonstrates that while purchasing goods, he has paid the amount of tax to the selling dealer. If the selling dealer has not deposited the amount in full or a part thereof, it would be for the revenue to proceed against the selling dealer.

In the case of **Mukand Limited Vs. the State of Karnataka, Bangalore - 2018 (2) TN 1168 - Karnataka High Court**, the issue inter alia was whether the department was justified in denying input tax credit to the assessee, on the ground that the VAT-100 returns filed by the selling dealers are not traceable under EFS. In that case, the High Court held that it is trite that the revenue can be at a loss in allowing the input tax credit to a dealer, who deals with a bogus transaction, for example, a selling dealer who is not in existence or a deregistered dealer, in such circumstances, it is not in doubt that unless the purchasing dealer establishes the genuineness of the invoices issued by the selling dealer, no input tax credit can be allowed but that is not the case in the present set of facts. Thus, it was held that where the assessee establishes the genuineness of the transaction, benefit of input tax cannot be denied to the assessee.

The need for the law to distinguish between honest and dishonest dealers was acknowledged by the Hon'ble Punjab and Haryana High Court in **Gheru Lal Bal Chand Vs. State of Haryana - 2011 (45) VST 195 (P&H) = 2012 (2) SCC 781 (P&H)** where the constitutional validity of Section 8 of the Haryana Value Added Tax Act, 2003 was being considered. It was held that:

"In legal jurisprudence, the liability can be fastened on a person who either acts fraudulently or has been a party to the collusion or connivance with the offender. However, law nowhere envisages imposing any penalty either directly or vicariously where a person is not connected with any such event or an act. Law cannot envisage an almost impossible eventuality. The onus upon the assessee gets discharged on production of Form VAT C-4 which is required to be genuine and not thereafter to substantiate its truthfulness by running from pillar to post to collect the material for its authenticity. In the absence of any malafide intention, connivance or wrongful association of the assessee with the selling dealer or any dealer earlier thereto, no liability can be imposed on the principle of vicarious liability. Law cannot put such onerous responsibility on the assessee otherwise, it would be difficult to hold the law to be valid on the touchstone of Articles 14 and 19 of the Constitution of India.

The rule of interpretation requires that such meaning should be assigned to the provision which would make the provision of the Act effective and advance the purpose of the Act. This should be done wherever possible without doing any violence to the language of the provision. A statute has to be read in such a manner so as to do justice to the parties. If it is held that the person who does not deposit or is required to deposit the tax would be put in an advantageous position and whereas the person who has paid the tax would be worse, the interpretation would give result to an absurdity. Such a construction has to be avoided.

In other words, the genuineness of the certificate and declaration may be examined by the taxing authority, but onus cannot be put on the assessee to establish the correctness or the truthfulness of the statements recorded therein. The authorities can examine whether the Form VAT C-4 was bogus and was procured by the dealer in collusion with the selling dealer. The department is required to allow the claim once proper declaration is furnished and in the event of its falsity, the department can proceed against the defaulter when the genuineness of the declaration is not in question. However, an exception is carved out in. The event where fraud, collusion or connivance is established between the registered purchasing dealers or the immediate preceding selling registered dealer or any of the predecessors selling registered dealer, the benefit contained in Form VAT C-4 would not be available to the registered purchasing dealer. The aforesaid interpretation would result in achieving the purpose of the rule which is to make the object of the provisions of the Act workable, i.e., realization of tax by the revenue by legitimate methods."

..... **To conclude, no liability can be fastened on the purchasing registered dealer on**

account of non-payment of tax by the selling registered dealer in the treasury unless it is fraudulent, or collusion or connivance with the registered selling dealer or its predecessors with the purchasing registered dealer is established.
 ...**Emphasis Supplied**

Further, reliance is placed on the decision of the Hon'ble Apex Court in **Chunni Lal Parshadi Lal Vs. Commissioner of Sales Tax, UP - AIR 1986 SC 1966**. In this case, considering the provisions of the U. P. Sales Tax Act, 1948, where liability of tax was sought to be fastened on the dealer by requiring the dealer to prove further as to how the purchasing dealer had dealt with the goods after the purchase, Hon'ble Court had held that, the assessee cannot be made liable to tax on such sale with the following observations:

"But it was contended by counsel for the dealer that in order to make the provisions of the Act operative and effective, this was the intention in the instant case and though the rule did not say so that it raised an irrebuttable presumption. We are of the opinion that this submission has to be accepted. After all the purpose of the rule was to make the object of the provisions of the Act workable, i.e., realisation of tax at one single point, at the point of sale to the consumer. The provisions of the rule should be so read as to facilitate the working out of the object of the rule.

An interpretation which will make the provisions of the Act effective and implement the purpose of the Act should be preferred when possible without doing violence to the language. The genuineness of the certificate and declaration may be examined by the taxing authority but not the correctness or the truthfulness of the statements. The sales tax authorities can examine whether certificate is 'farzi' or not, or if there was any collusion on the part of selling dealer – but not beyond—Le., how the purchasing dealer has dealt with the goods. If in an appropriate case it could be established that the certificates were 'farzi' or that there was collusion between the purchasing dealer and the selling dealer, different considerations would arise. But in the facts of this case as noticed before, the facts have been found to the contrary by the appellate authority though that was the finding of the Sales Tax Officer. The question has been reframed for that purpose, i.e., to bring out the real controversy in the background of the facts found in this case."

...**Emphasis Supplied**

Although the above ratios pertained to erstwhile VAT regime, the inference and the intent of the relevant legal provisions holds good in GST regime as well. Furthermore, the precise issue in the aforementioned case laws, are related to default of the supplier, cannot lead to denial of credit to the buyer. The present case is on much better footing where the supplier has undisputedly paid tax to the Government. Hence, the aforesaid judgment have greater force in the present case.

Thus, the proposal to deny ITC in the present impugned SCN is grossly unjustifiable, legally untenable and liable to be dropped forthwith.

Without prejudice to the above and in worst case scenario, the recent Circular No. 171/03/2022-GST dated 6.7.2022 issued by CBIC clarifies the position that there cannot be any proceeding against the buyer of the goods.

The CBIC issued **Circular No. 171/03/2022-GST dated 6.7.2022** which clarifies applicability of demand and penalty provisions under the Central Goods and Services Tax Act, 2017 in respect of transactions involving fake invoices. This circular contemplates three situations. The second situation is akin to the present issue. The relevant extract of the circular is reproduced hereunder:

Sl. No.	Issues	Clarification
2.	A registered person "A" has issued tax invoice to another registered person "B" without any underlying supply of goods or services or both. 'B' avails input tax credit on the basis of the said tax invoice. B further issues invoice along with underlying supply of goods or services or both to his buyers and utilizes ITC availed on the basis of the above mentioned invoices issued by 'A', for payment of his tax liability in respect of his said outward supplies. Whether 'B' will be liable for the demand and recovery of the said ITC, along with penal action, under the provisions of section 73 or section 74 or any other provisions of the CGST Act.	Since the registered person 'B' has availed and utilized fraudulent ITC on the basis of the said tax invoice, without receiving the goods or services or both, in contravention of the provisions of section 16(2)(b) of CGST Act, he shall be liable for the demand and recovery of the said ITC, along with penal action, under the provisions of section 74 of the CGST Act, along with applicable interest under provisions of section 50 of the said Act. Further, as per provisions of section 75(13) of CGST Act, if penal action for fraudulent availment or utilization of ITC is taken against 'B' under section 74 of CGST Act, no penalty for the same act, i.e. for the said fraudulent availment or utilization of ITC, can be imposed on 'B' under any other provisions of CGST Act, including under section 122.

Serial No. 2 of the circular covers a situation, wherein a registered person "A" issuing tax invoice to another registered person "B" without supply of any underlying goods or services and B has availed ITC based on such invoice. In turn, B further issue invoice to "buyer" along with supply of underlying goods and utilize the Input tax credit for payment of tax liability. According to the circular, it is clarified that B has availed and utilized fraudulent ITC, without receiving any goods and therefore has contravened the provisions of Section 16(2)(b) of the CGST Act, 2017. It is also clarified that B shall be liable for recovery along with interest and penalty under section 74 of the CGST Act, 2017. The Circular does not contemplate any contravention of provision by the "buyer", who purchased goods from B.

In the present case as well, the Noticee has availed ITC on the invoices received from suppliers along with underlying supply of goods. The submission mentioned in paras above, justifies that the present case involved physical supply of goods from the supplier to the Noticee.

The aforesaid Circular specifically stated that the intention to clarify the aforesaid aspect is to avoid double taxation. The denial of credit in the present case to the Noticee would amount to double taxation. Hence, the present notice is directly contrary to the aforesaid Circular of the Board.

Therefore, in view of the aforesaid circular, no proceeding can be initiated against the Noticee. Hence, the present impugned SCN is liable to be dropped on this ground alone.

Without prejudice, the Noticee has availed input tax credit based on the invoices issued by the

supplier. It is settled principle that source of source is not required to be proved.

The Noticee submits that they are not required to prove the correctness of the admissibility of the Input tax credit at the supplier's end. The Noticee had availed input tax credit on the strength of Invoices issued by the suppliers. The Noticee submits that they are not concerned with expenses been incurred by supplier in order to provide material to the Noticee& whether Input tax Credit availed by the supplier is correct or not.

The Noticee submits that it is well settled law that source of source is not required to be proved.

Kindly refer:

- a) **ParimisettiSeetharamamma Vs. CIT,(1965) 57 ITR 532 (SC)**
- b) **CIT Vs. Daulatram Rawatmull,(1973) 87 ITR 349 (SC)**
- c) **Narayandas Kedarnath Vs. CIT, (1952) 22 ITR 18 (Bom)**
- d) **Balchandra Chand Munnalal Vs. CIT, (1958) 33 ITR 781 (Allahabad)**
- e) **CIT Vs. Metachem Industries, (2000) 245 ITR 160 (MP)**
- f) **CIT Vs. Jawahar Lal Oswal,(2004) 267 ITR 308 (P&H).**

In view of above submission, the Noticee submits that when the Noticee have complied with all the conditions laid down under law for availing Input tax Credit, the credit is correctly admissible to them irrespective of the fact whether supplier has correctly availed Input tax Credit or not.

In view of the aforesaid submission, the impugned SCN is liable to be dropped on this ground alone.

THE IMPUGNED SCN HAVE BEEN ISSUED ON ASSUMPTION AND PRESUMPTION. THE DEPARTMENT HAS ACTIVELY IGNORED THE DOCUMENTS SUBMITTED BY THE NOTICEE AND PRESUMED THAT NO GOODS WERE INVOLVED IN TRANSACTIONS CARRIED OUT BY THE NOTICEE.

The impugned SCN solely relied upon the statements of the proprietor of the parties in dispute, and visits made to the place of business of the suppliers long after the dates of the actual supplies made (as evident from the date of summons/panchanama vis-à-vis date of invoices), to allege that transactions were carried out in a circular manner without involvement of goods.

It is submitted that apart from recording the statements, the Department has not carried out any independent investigation to ascertain availability of goods. The impugned order as well as SCN conveniently assumed that the Noticee had availed ITC without receipt of goods and passed on the same without supply of goods. However, the Department has failed to appreciate the documentary evidence submitted by the Noticee which substantiates the fact that the Noticee indeed received goods and actually supplied goods.

It is submitted that Noticee had received those goods for which it has claimed the ITC and further supplied. The goods were duly received and recorded in books of account of the Noticee. Based on

the invoices received from the disputed parties and GSTR-2A statement generated on the GST portal, the Noticee has claimed the ITC of GST paid to its disputed parties. The entire transactions have taken place as they would in any prudent business practice.

Further, the physical availability of goods could have been easily verified by the Department by conducting the physical verification of the goods lying in premises of the Noticee's customer. However, the Department chose to raise and confirm the demand without even verifying facts of the transaction and correlating underlying documents concerning the transactions between the Noticee and the suppliers i.e., the disputed parties.

Based on the above facts, it is clear that the goods in dispute were moved from the suppliers to the customers of the Noticee.

In the impugned SCN, there is absolutely no examination or observation with respect to physical availability of goods with the Noticee's customer. Therefore, portion of the impugned SCN is incorrect and liable to be set aside. There is no case made without verification of the records submitted by the Noticee during the various stages of the proceedings, which culminated into the impugned SCN. Hence, it is submitted that the impugned SCN is liable to be dropped in toto.

Without prejudice, assuming, if the contention of the department is to be accepted that there is no supply being made TO the Noticee tHERE WOULD BE NOT FURTHER SUPPLY TO M/s. Jay Bharat Metcast Pvt. Ltd TOO, AND there WAs no requirement to pay GST at all and whatever tax is paid should be refunded.

The Noticee submits that, if the contention of the department is to be accepted, that in fact no supplies have been rendered to the Noticee there cannot be any supply made to M/s. Jay Bharat Metcast Pvt. Ltd too, then the question arises as to why the GST paid on such transactions was accepted by the department. If the above contention is accepted, then there is no requirement to pay GST by the Noticee to the department.

The Noticee submits that the department cannot pick and choose between substance and form of the contract in order to determine the taxability of the same. At the time of accepting GST from the Noticee, the department chooses to look at the form of transaction and accept the GST. However, later, the department chooses to highlight the substance of the transaction and allege that no supplies have been rendered by the Noticee and therefore, the Noticee should pay penalty.

Similar issue came before the Hon'ble Supreme Court in the case of **CIT Vs. Mahalakshmi Textile Mills Ltd. - 1967 (66) ITR 710 (SC)** wherein the Hon'ble Supreme Court held that -

"5. By the first question the jurisdiction of the Tribunal to allow a plea inconsistent with the plea raised before the departmental authorities is canvassed. Under sub-s. (4) of s. 33 of the Indian IT Act, 1922, the Tribunal is competent to pass such orders on the appeal "as it thinks fit". There is nothing in the IT

Act which restricts the Tribunal to the determination of questions raised before the departmental authorities. All questions whether of law or of fact which relate to the assessment of the assessee may be raised before the Tribunal: If for reasons recorded by the departmental authorities in rejecting a contention raised by the assessee, grant of relief to him on another ground is justified, it would be open to the departmental authorities and the Tribunal, and indeed they would be under a duty to grant that relief."

Similar question was also dealt with in the case of **Bajaj Allianz General Insurance Co. Ltd. Vs. CCE - 2014-TIOL-154-CESTAT-MUM** wherein the assessee had wrongly paid service tax under reverse charge mechanism on services performed in the territory of Jammu & Kashmir, and the department sought to deny the Cenvat credit being availed on the same. The Tribunal, relying on Mahalakshmi Textiles (supra) in this case held that:

"The CENVAT Credit taken by the appellant is nothing, but refund of the service tax paid by them on the services on which they were not required to pay service tax."

Further, the Noticee have raised invoices along with GST thereon on M/s. Jay Bharat Metcast Pvt. Ltd in terms of Section 31(2) of the CGST Act, 2017. The Noticee had deposited the same to the Government Exchequer and reported the transaction in their FORM GSTR-1 as well as GSTR-3B. The department has accepted such payment and the assessment has attained finality. M/s. Jay Bharat Metcast Pvt. Ltd had availed Input tax credit of GST paid on the strength of the aforesaid invoices.

Therefore, even if the department contends that the supplies have not been provided in the present case to the Noticee and consequently no supply could have been made to M/s. Jay Bharat Metcast Pvt. Ltd, then the refund should be granted to the Noticee on the supply made to M/s. Jay Bharat Metcast Pvt. Ltd. The department cannot approbate and reprobate in the same case.

Hence, the amount paid should be granted as refund. Therefore, Show Cause Notice is bad in law and hence, liable to be dropped.

Without prejudice to other submissions, assuming without admitting that the Noticee had not received goods from the suppliers, then utilization of credit by the Noticee, for payment of output tax, should be treated as reversal of alleged inadmissible credit.

Without prejudice to other submissions, as is evident from the facts of the present case, the suppliers had supplied goods to the Noticee on payment of GST. The departmental authorities have all along been accepting such tax payments. After accepting the tax payments on the supplies made by the suppliers, the department cannot now turn around to allege Input tax Credit is not admissible to the Noticee.

It is settled legal position that when tax has been discharged on the supplies made by an assessee, he cannot be denied benefit of credit of input supplies used in provision of such output supplies.

In this regard, the Noticee place reliance on the decision in the case of **Ajinkya Enterprises Vs. CCE**

- **2011-TIOL-1333** wherein the Hon'ble Tribunal categorically held that the department having once accepted the amount paid by the assessee as duty which is more than the Cenvat credit availed by the assessee they are not required to reverse the credit. The Hon'ble Bombay High Court has upheld this decision of the Tribunal and the same is reported at **2012-TIOL-578-HC-MUM-CX**.

The Noticee also place reliance on the following decisions which also concur with the same view:

- (i) **PSL Holdings Ltd. Vs. CCE - 2003 (156) ELT602 (T)**
- (ii) **Vinayak Industries Vs. CCE - 2003 (159) ELT 456 (T)**
- (iii) **Silvassa Wooden Drums Vs. CCE - 2005 (184) ELT 392 (T)**
- (iv) **Shivali Udyog Vs. CCE - 2006 (204) ELT 94 (T)**
- (v) **Ajay Metachem Vs. CCE - 2006-TIOL-667-CESTAT-MUM**
- (vi) **Creative Enterprises Vs. CCE - 2004 (60) RLT 342 (T)**
- (vii) **Orion Ropes (P) Ltd. Vs. CCE - 2006-TIOL-391-CESTAT-MUM**
- (viii) **Systematic Steel Industries Ltd. Vs. CCE - 2005 (191) ELT 663**

The above analogy in case of paying excise duty by utilizing credit would equally apply to payment of output GST by utilizing input tax credit.

In view of the settled legal position, there cannot be any further demand of tax from the Noticee, since the GST payment on the output supplies effectively reversed the entire credit availed on input supplies. Hence, the denial of Input tax credit is incorrect and unsustainable.

Interest is not recoverable from the Noticee.

The impugned SCN has confirmed interest liability under Section 50 of the CGST Act upon the Noticee on account of fraudulent availment of ITC and utilisation thereof.

Section 50 of the CGST Act imposes interest liability on delayed payment of tax or wrongful availment of ITC, the relevant extract of the provision applicable for the relevant period is reproduced below:

"Section 50 - Interest on delayed payment of tax

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.

...

(3) A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the recommendations of the Council."

...Emphasis Supplied

The Noticee submits that it is not liable to pay interest under Section 50(1) and Section 50(3) of the CGST Act as there is no short payment of tax and excess availment or undue reduction of ITC in GSTR-3B, or wrongful availment and utilization of ITC for the relevant period.

It is submitted that the language of Section 50 of the CGST Act read makes it clear that interest cannot be demanded where no tax is payable. As already submitted above, the tax equivalent to ITC availed cannot be demanded. The Noticee has correctly availed ITC in terms of Section 16 of the CGST Act. Thus, there is no tax payable in the hands of the Noticee. Accordingly, the demand of reversal of ITC availed basis the payment of GST to the supplier, as reiterated above, is untenable in law. Hence, the impugned SCN confirming the demand of interest is incorrect and cannot be enforced.

In this regard, it is submitted that as the demand of tax itself is untenable, the question of payment of interest does not arise. In this regard, reliance is placed on the case in *In Re: Victor Pushin Cords Pvt. Limited* [2013 (297) E.L.T. 312 (Commr. Appl.)]

It is submitted that based on aforementioned grounds, the confirmed demands is not sustainable, accordingly, imposition of interest liability does not stand on itself. Thus, the question of recovery of interest does not arise under Section 50 of the CGST Act, 2017.

The Noticee submits that it is a settled principle of law that in cases where the demand is not sustainable, interest cannot be levied.

In this regard, the Noticee relies on the case of **Pratibha Processors v/s. Union of India reported at 1996 (88) ELT 12 (S.C.)**, wherein the Hon'ble Supreme Court has held that in tax matters, interest is not liable to be paid if there is not liability to pay tax itself. This position has also been upheld subsequently in the decision of the Hon'ble Supreme Court in the case of the **Commissioner of Customs, Chennai v/s. Jayathi Krishna & Co. reported at 2000 (119) E.L.T. 4 (S.C.)**.

The Noticee also submits that interest is compensatory in nature and unless the Noticee has taken any benefit by way of utilization of ITC, interest is not applicable. Thus, it is submitted that the Noticee is not liable to pay interest on ITC availed in the GSTR-3B.

Therefore, it is submitted that the interest cannot be imposed upon the Noticee under Section 50 of the CGST Act.

Further, it is submitted that in the present case, no interest should be demanded as the Noticee has not derived any financial benefit. Given this, the interest of Department has not been adversely affected in any manner and therefore, the question of compensation through interest does not arise. Since the Noticee has neither short paid any tax liability nor wrongly availed and utilized ITC i.e., demand itself is unsustainable, interest on the same cannot be recovered and accordingly, the impugned SCN should be set aside on this ground alone.

Demand proceedings initiated and imposition of penalty under Section 74 (1) of the CGST Act, respectively, is unsustainable and unwarranted due to absence of fraud, suppression, etc.

The impugned SCN has proposed to levy penalty on the Noticee under Section 74 of the CGST Act for alleged wrongful availment of ITC.

The impugned SCN states that the Noticee has participated in the paper transactions instead of undertaking genuine supply, and based on this assumption the impugned order has confirmed the grounds of suppression of facts with an intention to evade GST. It states that had the Department not initiated investigations against the Noticee, it would have not come to the notice to department and thereby would have caused loss of revenue to the Government.

It is humbly submitted that the impugned order is issued under Section 74 of the CGST Act without any case made of suppression of the facts, or wilful misrepresentation or fraud with intention to evade tax for non-payment of tax on assignment of leasehold rights in the demised premises. Thus, it is submitted that the impugned order is vague, bereft of any reasoning, and issued in gross violation of principles of natural justice; thus, the impugned order is liable to be set aside in toto.

Section 74 of the CGST Act allows a proper officer to issue a show cause notice where tax has not been paid or short paid or erroneously refunded or ITC has been wrongly availed or utilised on account of fraud or any wilful-misstatement or suppression of facts. The relevant extract of Section 74 that provides for demand of tax and penalty for suppression of facts, or wilful misrepresentation or fraud with intention to evade tax is reproduced as under:

"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 or utilised by reason of fraud, or any wilful-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 been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice."
...**Emphasis Supplied**

Furthermore, the impugned order has proposed to impose penalty under Section 74 of the CGST Act. In this regard, it is submitted that penalty can be imposed on a taxpayer under Section 122(2)(b) of the CGST Act.

As per Section 122 (2) (b) of the CGST Act, penalty equivalent to Rs. 10,000 or 100% of the tax due, whichever is higher, would be applicable. The relevant portion of the provision is reproduced under:

"122 (2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed

or utilised, -

(b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher."

The Noticee submits that Section 74(1) for demand of tax and Section 122(2)(b) of the CGST Act for imposition of penalty is not applicable in the present case in light of absence of any activity leading to suppression of fact with intention to evade tax.

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a. The criteria to invoke suppression of facts is not fulfilled.

It is submitted that the applicability of Section 74 of the CGST Act is dependent on the presence of a pre-determined mind to escape tax, by way of fraud or suppression or misstatement. It is submitted that the expressions 'appears to the proper officer' preceding such determination of evasion of tax requires proper application of mind by the proper officer. Such determination cannot be a casual act, but a result of proper assessment facts of by the officer.

It is submitted that the term 'suppression' has been defined in Explanation 2 of Section 74 to mean non-declaration of facts or information in returns and other documents.

"Explanation 2. – For the purposes of this Act, the expression "suppression" shall mean 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 this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer."

From the combined reading of Section 74(1) and Explanation 2, it is evident that even though definition of 'suppression' does not provide for the presence of element of mala fide intention, still the phrase 'to evade tax' used with the term "suppression of facts" in Section 74 in itself has to be understood to include mens rea within its purview.

In this regard, reliance is also placed on the case of **Nathulal vs. State of MP, AIR 1966 SC 43**, wherein it was held that in cases of penalty provisions which are silent on requirement of element of mens rea, unless there is a specific exclusion of the same either expressly or by necessary implication, there is presumption of mens rea.

Further, reference is drawn to the doctrine of '*noscitur a sociis*', which states that meaning of a word may be known from accompanying words. As per this doctrine, when a word is ambiguous, its meaning may be determined by reference to the rest of the statute. The principle of Noscitur a Sociis is a rule of construction. This means that the meaning of an unclear word or phrase must be determined by the words that surround it.

In other terms, the meaning of a word must be judged by the company that it keeps. The questionable meaning of a doubtful word will be derived from its association with other words. Applying this principle of noscitur a sociis, the phrase 'suppression of facts' has to be read in

company of the terms 'willful misstatement' and 'fraud' mentioned in Section 74, which specifically provides for an element of mens rea. Thus, mens rea is an important requirement for application of Section 74.

In the present case, basis the submissions made above, there is no suppression, willful misstatement, fraud, mens rea etc. on the part of the Noticee.

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b. Matter of Legal Interpretation

The Noticee submits that the present case of pertains to matter of interpretation of Section 16 of the CGST Act. It is a settled position in law that elements of fraud, suppression, etc., is not sustainable in cases, where the issue relates to the interpretation of the law. Reliance in this regard is placed on the following judgments:

- **Commissioner of Central Excise & Customs Vs. Aicon Pharma P. Ltd. [2015 (322) E.L.T. 47 (Guj.)]**
- **Marsha Pharma Pvt. Ltd. Vs. CCE, Vadodara [2009 (248) E.L.T. 687 (Tri. – Ahmd.)]**
- **Associated Pigments Ltd. Vs. Superintendent of Central Excise [1993 (68) E.L.T. 514 (Cal.)]**
- **Ispat Industries Ltd. Vs. CCE [2006 (199) ELT 509 (Tri.-Mum)]**
- **NIRC Ltd. Vs. CCE [2007 (209) ELT 22 (Tri.-Del.)]**
- **Chemicals & Fibres of India Ltd. Vs. CCE [1988 (33) ELT 551]**

Therefore, the Noticee submits that Section 74 read with Section 122(2)(b) cannot be invoked in cases of legal interpretation.

c. Mens rea is absent in present case

It is further submitted that proceedings of Section 74 and penalty being a quasi-criminal proceeding, cannot be ordinarily imposed unless and until "mens rea" on the part of the defaulter is proved beyond all reasonable doubts. In this regard, reliance is placed on the case of **Hindustan Steel Ltd. vs. State of Orissa, 1978 (2) E.L.T. (J159)** wherein the Hon'ble Supreme Court has held that penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of dishonest conduct. Relevant portions of the judgment are reproduced below:

"7. An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute."

...Emphasis Supplied

In this regard, reliance is also placed on the following judicial pronouncements wherein Hon'ble Court/ Tribunal held that penalty cannot be imposed in absence of *mens rea*:

- **Akbar Badruddin Jiwani vs. Collector of Customs, 1990 (47) E.L.T. 161;**
- **Jay Engineering Works Ltd. vs. Collector of Central Excise, Calcutta, 1984 (16) E.L.T. 534;**
and
- **Bridge & Roof Co. (I) Ltd. vs. Collector of Central Excise, Calcutta, 1986 (24) E.L.T. 671 (Tribunal).**

Therefore, Section 74 read with Section 122(2)(b) is not applicable upon the Noticee in absence of any "mens rea" basis the submissions made above.

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d. Penalty cannot be imposed under Section 122(2)(b) as demand is unsustainable.

With regard to the imposition of penalty under Section 122(2)(b) of the CGST Act, it is submitted that when tax itself is not payable, the question of imposition of penalty does not arise. Reliance in this regard is placed on the decision of the Hon'ble High Court in the case of **Coolade Beverages Ltd. v. CCE, Meerut [2004 (172) E.L.T. 451 (All.)]**. Therefore, no penalty can be imposed under Section 122 (2) (b) of the CGST Act.

It is submitted that the elements / circumstances for imposing penalty under Section 122 (2) (b) of the CGST Act are *parimateria* the elements / circumstances for issuing SCN under Section 74 (1) of the CGST Act. As submitted in above Grounds, there is no suppression or intention for evasion of tax by the Noticee, therefore, the extended period of limitation cannot be invoked in the present case, and consequently, no penalty can be imposed on the Noticee.

In this regard, reliance is placed in the following decisions,

- **CCE v. Birla NGK Insulators (P) Ltd. [2009 (247) ELT 631 (Tri. Kolkata) – Affirmed in 2010 (256) ELT A123 (Cal.)]**
- **Alpha Lab v. CCE [2009 (247) ELT 625 (Tri. Ahmd.)]**

Therefore, it is reiterated that the Noticee has not caused tax evasion by reasons of suppression of facts, wilful misrepresentation and fraud under Section 74 of the CGST Act. That, without material case made for invocation of Section 74, i.e., presence of intention to evade tax, suppression of facts, wilful misrepresentation and fraud, the impugned order is legally untenable. Without prejudice to anything above, in absence of the elements of Section 74 of the CGST Act, the proceedings can only

be continued under Section 73 of the CGST Act.

It is also submitted that the onus is on the assessee of compliance with the statutory provisions, and the Noticee has complied with the provisions of CGST Act. There is no failure with compliance with law. Further, the present case does not involve with non-compliance in self-assessed documents.

It is submitted in this regard that the Noticee was and is under the bonafide belief that it has correctly availed the ITC in accordance with Section 16 of the CGST Act. Hence, it is submitted that there was no intention on part of the Noticee for evasion of tax. It is submitted that the impugned order under Section 74 (1) can in no manner be invoked in case the Noticee has acted on the basis of the bonafide belief.

The Department, apart from mere averment in the impugned order, has failed to bring out the essential elements of "mens rea" or guilty mind of the Noticee. In fact, there was no intention to evade payment of taxes on part of the Noticee, as explained in detail in the submissions made above.

Basis the detailed discussion above and placing reliance on the aforementioned case laws, the Noticee submits that the ingredients of mala fide are applicable when there is positive attempt by a registered person to suppress information from the Department or wilfully mis-state the same. In the absence of any positive act of 'suppression' on part of the Noticee, Section 74 of the CGST Act cannot be invoked.

Thus, the impugned SCN issued under Section 74 and penalty imposed under the Section 122(2)(b) of the CGST Act is completely void and liable to be set aside.

And finally, the noticee prayed to drop the demand raised in the impugned SCN.

17.1.2 Defence Submission made by M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6);

DETAILED SUBMISSIONS

THE IMPUGNED NOTICE LACKS FACTUAL REBUTTALS WITH REGARDS TO THE STATUS OF THE NOTICEE.

The impugned alleges the Noticee to be non-existent at the time of search and thereby considering the supplies to be of fraudulent nature. In this regards it is submitted that the department has failed to consider the following established facts evidencing the genuineness of the Noticee.

- a. **Amendment for change in place of business on the GSTN Portal:** it is submitted that an application for change of business address was filed on 17.11.2020. The copy of rent agreement as well as copy of ARN for amendment in place of business is enclosed. However, the search was conducted at the former place of business. The change in place of business has been acknowledged in the impugned notice in Point No. 6.1.2.

- b. **No response against the summons issued dated 10.04.2023 and 13.01.2025:** it is alleged in the impugned notice that the no response was received by the Noticee against the mentioned summons which supports the contention of his nonexistence which is contradictory to the statement recorded of Mr. Ashwini Vyas, authorised signatory of the Noticee on 15.12.2020 at the Office of the Deputy Commissioner, UTGST, Silvassa, under section 174 and section 70 of the CGST Act, 2017 wherein all the details were provided along with documents. The copy of the statement is enclosed.
- c. **Cancellation of registration under GST:** The GST law provides for immediate cancellation of registration where the taxpayer is found to be non-existent as per section 29(2) (e) of the CGST Act, 2017 in contrary to the fact that the registration of the Assessee was cancelled upon application with effect from 30.04.2022. The status of the registration can be verified as under;

Search Result based on GSTIN/UIN : 26AHIPP8549A1Z6

Legal Name of Business	Trade Name	Effective Date of registration
DURGESH PANERI	GANPATI TRADERS	10/09/2019
Constitution of Business	GSTIN / UIN Status	Taxpayer Type 
Proprietorship	Cancelled on application of Taxpayer (Effective from 30/04/2022)	Regular
Administrative Office	Other Office	Principal Place of Business
(JURISDICTION - STATE) State - Dadra and Nagar Haveli and Daman and Diu Headquarter - Silvassa Ward - Silvassa	(JURISDICTION - CENTER) State - CBIC Zone - VADODARA Commissionerate - DAMAN Division - DIVISION-VI SILVASSA Range - RANGE-I	1ST, A1 204, YOGI HILLS, SILVASSA AMLI, SILVASSA, Dadra And Nagar Haveli, Dadra and Nagar Haveli and Daman and Diu, 396230
Whether Aadhaar Authenticated?	Whether e-KYC Verified?	Additional Trade Name
No	No	View

The above submissions defy the contention of the Department alleging the Assessee is a non-existent party and thus issuing fake invoices and availing and utilising fraudulent ITC by invoking the provision of section 122 of the CGST Act, 2017.

THE IMPUGNED NOTICE LACKS FACTUAL REBUTTALS WITH CONTENTION OF ISSUE OF FAKE INVOICES AND FRAUDALENT ITC

It is imperative to note that the key to prove or justify fake invoicing is by proving that there was no movement of goods. However, in the present case, no evidence has been provided suggesting that there was no movement of goods. The allegation is merely based on the non-existence of the two transporters out of all the transporters during the period of search. There has been no verification of the vehicle numbers with the toll crossing data.

The impugned notice relies on the Department's conclusion based on verification of only two transporters (R.D. Logistics and Jay Shree Gopal Roadlines) is fundamentally flawed and represents a selective and incomplete investigation. It is submitted that in the period of dispute, multiple transporters were engaged for transit of goods. The details of the transporters can be verified from the copies of E-way bills attached to the invoices as being submitted with this reply. Thus, The Department has cherry-picked only two transporters while ignoring substantial evidence of goods movement through other channels.

From the verification of above documents, it can be observed that he Noticee utilized services of several transporters including:

- Bhavya Logistics
- Yash Roadlines
- Aryan Transport Service
- Sadguru Roadways

The impugned notice has not considered or verified the details of the above-mentioned transporters which suggests that there was no deficiency in the supplies made through the

mentioned transporters.

It is further highlighted that the impugned notice has failed to provide any evidence supporting the invalidity of the vehicle numbers as mentioned in the lorry receipts of M/s R.D. Logistics and Jay Shree Gopal Roadlines or non-transit of such vehicles as per the toll data. The entire conclusion is solely based on the non-existent status of these transporters at the time of search.

Further, the department has relied upon the scrutiny of records of the Noticee as per Point No. 7.2.1 of the impugned notice, where the status of the firms who have supplied goods to the Noticee, has been observed to be non-existent at the time of search as enclosed in RUD-19 to RUD-25. In this regard, it is submitted that there has been inconsistency in presenting the facts of the suppliers of Noticee and we hereby submit the detailed status of each supplier engaged in the period of dispute;

24BVBPN1870Q1Z6	JALAK ENTERPRISE	25/06/2020	19/07/2019	2019-20	cancelled before the date of search
24DYJPK3419P1ZY	SHREE BALAJI ENTERPRISE	12/04/2023	25/11/2019	2019-20	cancelled before the date of search
24FYRPD6454B1ZF	PRIME METALS	25/06/2020	11/11/2019	2019-20	cancelled before the date of search
24BMSPR4008Q1ZB	MAGNUS METALS	25/06/2020	30/06/2020	2019-20	Supply pertains to prior period and not during the period of search
24BPTPG3529K1ZJ	METRO METALS	25/06/2020	15/07/2020	2019-20	Supply pertains to prior period and not during the period of search
24BXZPS8862D1ZM	SMIT ENTERPRISE	25/06/2020	14/12/2020	2019-20	Supply pertains to prior period and not during the period of search
24EHJPM8399N1Z9	MAHADEV TRADING	26/08/2021	23/10/2021	2020-21	Supply pertains to prior period and not during the period of search

It is pertinent to note that the search has been conducted post the period of supply of goods and no invoice has been issued during the period of search. Also, the date of cancellation of registration do not coincide with the date of search which adds to the facts that the impugned notice has failed to observe any fake invoicing during the period of search. Accordingly, the provisions of section 122 of the CGST Act, 2017 are wrongly invoked.

Bases on the submissions made, it can be established that the impugned notice lacks evidence of deliberate intent to evade tax or defraud the revenue and accordingly the provisions of section 122 of the CGST Act, 2017 must not be set aside.

It is further submitted that the provisions of section 16 of the CGTS Act, 2017 has been misapplied by non-considering the following documents as laid in the referred section:

- Valid Tax Invoice Requirement: All transactions were supported by valid tax invoices issued by registered suppliers as required under Section 16(2)(a).
- Receipt of Goods/Services: Actual receipt of goods is evidenced through weighment slips, e-way bills, and transportation documents (Annexure-B).
- Payment of Tax by Supplier: All suppliers were registered dealers who had paid applicable taxes on outward supplies.

We rely on the judgement passed by the High Court of Gujarat in the case of Pravinbhai

Mohanbhai Vadi v. Deputy Commissioner of State Tax, Enforcement Division [2024] 163 taxmann.com 611, where it has been held; "Where assessee challenged provisions of section 16(2) (c) of CGST Act whereby purchaser of goods was imposed with obligation of discharge burden of proof that seller was registered and had paid tax on goods supplied; since seller in respect of all past transactions had utilised input tax credit which was admissible in respect of such supplies, in event of cancellation of registration of supplier, if demand was raised from purchaser, case was to be heard with another pending application; till decision no coercive steps was to be taken against assessee."

3. THE PROVISIONS OF SECTION 74 OF THE CGST ACT, 2017 ARE WRONGLY INVOKED IN THE IMPUGNED NOTICE

The impugned is issued under Section 74 of the CGST Act, 2017 by considering the matter involving fraud, wilful misstatement, or suppression. It has already been established that the impugned notice has failed to provide any malafide intention on the part of the noticee through our submissions and supporting documentary evidence.

It is further submitted that the chronology of events reveals an inexplicable and prejudicial delay that undermines the very foundation of fair adjudication. The search was conducted on 25.12.2020, the first summons was issued after 2 years and 4 months on 10.04.2023, and the Show Cause Notice was issued on 20.06.2025, after 4 years and 6 months from the initial search. Such inordinate delay without any reasonable explanation violates the taxpayer's right to speedy justice and creates irreparable.

The Department's allegation that the Noticee did not respond to summons is factually incorrect and demonstrates a fundamental misunderstanding of the actual sequence of events. The Noticee had already provided a comprehensive statement on 15.12.2020 before the Deputy Commissioner, UTGST, Silvassa, under Sections 70 and 174 of the CGST Act, 2017, wherein all relevant documents and explanations were furnished in detail.

The Department has solely relied on statements of third parties without conducting independent verification of the Noticee's books, bank accounts, or actual business operations.

The investigation appears to be inference-based rather than evidence-based, which is legally Impermissible when imposing such substantial demands and penalties. The failure to examine the Noticee's books of accounts, bank statements, and other business records represents a fundamental deficiency in the investigative process that renders the conclusions legally unsustainable. Accordingly, the impugned notice must be quashed.

In light of the comprehensive submissions, legal precedents, and factual evidence presented above, it is most respectfully prayed that this Hon'ble Authority may be pleased to:

1. Set aside the impugned Show Cause Notice in its entirety as being legally untenable, factually incorrect, and procedurally flawed;

2. Drop the proceedings initiated against the Noticee as the same are based on presumptions rather than concrete proof;
3. Issue appropriate directions to prevent similar harassment of Bonafide taxpayers based on incomplete investigations;
4. Grant any other relief deemed fit and proper in the circumstances of the case and in the interest of justice.

D. CONCLUSION

The impugned notice represents a classic case of inference-based adjudication without substantial evidence. The Department has failed to prove the fundamental allegation of non-supply of goods or fraudulent intent. Instead, the evidence overwhelmingly establishes that the Noticee conducted genuine business operations with proper documentation and compliance.

The following facts conclusively establish the Noticee's innocence:

1. Timely compliance with all statutory requirements including address amendment
2. Comprehensive documentary evidence supporting all transactions
3. Genuine financial transactions through proper banking channels
4. Voluntary registration cancellation indicating legitimate business conclusion.
5. No evidence of tax evasion or wilful default
6. Cooperation with authorities including providing statement when called upon

The law requires the Department to prove its case beyond reasonable doubt, especially when imposing penalties that are quasi-criminal in nature. The present case falls far short of this standard and the allegations deserve to be dismissed in their entirety,

We have full faith in the wisdom and fairness of this Hon'ble Authority and trust that justice will prevail. The principles of natural justice, constitutional safeguards, and established legal precedents all favour the Noticee's position.

17.1.3 Defence Submission made by M/s Vandana Enterprises (GSTIN-24AGCPJ7828F1ZI);

"In Notice received your Good self stated that we are not eligible to ITC of following Invoices as **M/s KRISHNA INDUSTRIES (GSTN 26ALEPP9431H1ZW)** as the same firm is non-existing firm who is indulged in generating fake invoices.

Invoice No	Invoice Date	Invoice Value	Taxable Value	IGST
70/18-19	29/03/2019	701386	589400	106092
71/18-19	29/03/2019	548114	460600	82908
74/18-19	30/03/2019	694722	583800	105084
75/18-19	30/03/2019	554778	466200	83916
			TOTAL	378000

The only reason for declining the input tax credit was on the ground that ITC was availed on the strength of fake purchases invoices from certain entities which are fictitious firm.

In this regard we would like to submit that We have Purchased Goods from M/S KRISHNA INDUSTRIES (GSTN 26ALEPP9431H1ZW) during the FY 2018-19. In Intimation Received Your Good self-mentioned that M/S KRISHNA INDUSTRIES (GSTN 26ALEPP9431H1ZW) Bogus and non-existing firm but we have not received any proof which shows that it's non-existing firm. Firm is active for the period FY 2018-19. Registration of the said firm is cancelled with effect from 8TH APRIL,2021 on application of Taxpayer. Since we have purchased the goods and fulfilled all condition for availment of ITC and also registration of the said firm is active for the FY 2018-19, we are eligible to take Input Tax Credit. We have attached herewith Party registration status downloaded from portal which shows that registration of firm is active for the FY 2018-19 and all return for the FY 2018-19 filed by the said firm.

Further We would like to submit that the above referred intimation directing us to reverse the ITC is not in accordance with law as the ITC availed by us is in compliance of conditions mentioned in Section 16(2) of CGST Act.

Primary Condition for availing Credit as per Section 16(2) is asunder:

1. Registered person shall be in possession of the invoice raised by the supplier.
2. Registered person should have received goods or services or both.
3. Tax has been paid by supplier of such supply to the Government.
4. Registered person has furnished the return under S.39

We have fulfilled all the primary conditions for availment of the credit.

1. We have Purchased Raw Material from above mentioned supplier. We are in possession of valid tax invoices issued by the supplier in relation to all transactions entered with them. We have attached herewith Copy of invoices for such Supply Received.
2. We have received the goods from above mentioned supplier.
3. The said Goods are used by us for manufacturing of finished products, in other words are used in the course or furtherance of business.
4. The GST as charged by the above-mentioned supplier on their Tax Invoice raised has been duly paid by us to both Suppliers who are supposed to remit the same to the Government.
5. We have also matched each and every tax amount as appearing in the supplier's invoices with the GSTR 2A, which can only be reflected in GSTR 2A if the supplier has filed their GSTR 1.
6. We have made all payments to above mentioned supplier. We have attached herewith Bank Statement as a proof of payment.

We depend on government portal for finding validity and genuineness of supplier at the time of transaction, registration of supplier shown as a valid and existing on government portal at the time of transaction. As no tool available on portal to verify whether registered person is involved in other illegal transaction we are not if fault if later on supplier is involve in some illegal transaction.

Regarding our transaction with above mentioned supplier, we would like to submit that it is a genuine transaction. We are in possession of invoice, we have also received goods for such invoices, you can verify the same from the e way bill generated by the supplier for transportation of such goods from the place of supplier to our premises. We have also make payment of the supply along with the GST to supplier; your good self can verify the same from the bank statement and E- Way bills attached .

We have done all the procedure law requires us to do, we have no other way to ascertain and secure compliance of selling dealer. Suppliers also include supply

made to us in GSTR-1 and also filled GSTR 3B within time prescribed. As government portal shown, suppliers has done all the compliance within time prescribed as per law. Other than our transaction with the suppliers, it is impossible for us to verify whether the supplier is involved in some illegal transaction or not. We can prove the genuineness of our transaction with the supplier, but we are not in position to verify all other transactions of supplier.

We are hereby attaching all the proof of transaction along with payment details.

We request your good self to kindly consider the same and drop further proceedings in this regard. If any other information or explanation is required by your good self- please let us know."

18. PERSONAL HEARINGS:

In order to observe the principles of natural justice, opportunities of Personal hearing were granted to the noticee(s) on 25.08.2025, 19.09.2025 and 10.11.2025. M/s Ganpati traders (GSTIN 26AHIPP8549A1Z6) attended the personal hearing on 19.09.2025 physically through authorised representative Ms. Pratibha Chawla, CA and during the Personal Hearing she re-iterated the submission given earlier. Further, M/s. Gautam Exim Ltd (GSTIN 24AACCG7701P1ZF) attended the personal hearing on 10.11.2025 virtually through authorised representatives Mr. Chaitanya Bhatt and Shri Vatsal Bhanushali. During the Personal Hearing they re-iterated the submission given earlier. And M/s Vandana Enterprises (GSTIN 24AGCPJ7828F1ZI) attended the personal hearing on 10.11.2025 virtually through authorised representative shri Vinodkumar Sampatraj Jain and during the Personal Hearing he re-iterated the submission given at the time of personal hearing on email. Further, M/s Jai Bharat Metcast Pvt Ltd (GSTIN 24AACCG78923A1ZX), M/s Krishna Industries (GSTIN 26ALEPP9431H1ZW) and M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX) neither attended personal hearing on given dates nor submitted any defense reply. In spite of giving fair opportunities to hear the case, they did not attend the personal hearing on the given dates. I am, therefore, bound to decide the case on the basis of the facts available on record in the case file.

19. DISCUSSION AND FINDINGS:

19.1. I have gone through the records of the case viz. show cause notice DGGI/SZU/36-82/2025-26/Gr-07 dated 20.06.2025, relied upon documents, defence submissions submitted by some noticees and submissions by some noticees made on the day of personal hearings and the material placed on record. I find that M/s Ganpati traders (GSTIN 26AHIPP8549A1Z6), M/s. Gautam Exim Ltd (GSTIN 24AACCG7701P1ZF) and M/s Vandana Enterprises (GSTIN 24AGCPJ7828F1ZI) have submitted their defense replies and also they have attended personal hearings. Further, I find that M/s Jai Bharat Metcast Pvt Ltd (GSTIN 24AACCG78923A1ZX), M/s Krishna Industries (GSTIN 26ALEPP9431H1ZW) and M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX) neither attended personal hearing on any given dates nor submitted any defense reply. In spite of giving fair opportunities to hear the case, they did not attend the

personal hearing on the given dates. I am, therefore, bound to decide the case on the basis of the facts available on record in the case file.

19.2. I find that in present case enough opportunities have been granted to the noticee / co-noticees and now adjudicating the case would not tantamount to violation of natural justice in respect of the noticee / co-noticees who did not appear for personal hearing and failed to submit any defense submission.

20. I find that in present case enough opportunities have been granted to the co-noticee i.e **M/s. Jay Bharat Metcast Pvt. Ltd., (GSTIN: 24AACCJ8923A1ZX), M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6) , M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW), M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX)**, and now adjudicating the case would not tantamount to violation of natural justice in respect of the noticee / co-noticee who did not appear for personal hearing and failed to submit any defense submission. In this connection, I find that Hon'ble Supreme Court, High Courts and Tribunals, in several judgments/decision, have held that ex-parte decision will not amount to violation of principles of Natural Justice, when sufficient opportunities for personal hearing have been given for defending the case.

In support of the same, I rely upon the following judgments/orders as under:-

- a. Hon'ble High Court of Kerala in the case of **UNITED OIL MILLS Vs. COLLECTOR OF CUSTOMS & C. EX., COCHIN** reported in 2000 (124) E.L.T. 53 (Ker.), has observed that;

"Natural justice - Petitioner given full opportunity before Collector to produce all evidence on which he intends to rely but petitioner not prayed for any opportunity to adduce further evidence - Principles of natural justice not violated.

(Emphasis Supplied)"

- b. Hon'ble High Court of Calcutta in the case of **KUMAR JAGDISH CH. SINHA Vs. COLLECTOR OF CENTRAL EXCISE, CALCUTTA** reported in 2000 (124) E.L.T. 118 (Cal.) in Civil Rule No. 128 (W) of 1961, deciding on 13-9-1963, has observed that;

"Natural justice - Show cause notice - Hearing - Demand - Principles of natural justice not violated when, before making the levy under Rule 9 of Central Excise Rules, 1944, the assessee was issued a show cause notice, his reply considered, and he was also given a personal hearing in support of his reply - Section 33 of Central Excises & Salt Act, 1944. - It has been established both in England and in India [vide N.P.T. Co. v. N.S.T. Co. (1957) S.C.R. 98 (106)], that there is no universal code of natural justice and that the nature of hearing required would depend, inter alia, upon the provisions of the statute and the rules made thereunder which govern the constitution of a particular body. It has also been established that where the relevant statute is silent, what is required

is a minimal level of hearing, namely, that the statutory authority must 'act in good faith and fairly listen to both sides' [Board of Education v. Rice, (1911) A.C. 179] and, "deal with the question referred to them without bias, and give to each of the parties the opportunity of adequately presenting the case" [Local Govt. Board v. Arlidge, (1915) A.C. 120 (132)]. [para 16]

(Emphasis supplied)"

(c) Hon'ble High Court of Delhi in the case of **SAKETH INDIA LIMITED Vs. UNION OF INDIA** reported in 2002 (143) E.L.T. 274 (Del.), has observed that:

"Natural justice - Ex parte order by DGFT - EXIM Policy - Proper opportunity given to appellant to reply to show cause notice issued by Addl. DGFT and to make oral submissions, if any, but opportunity not availed by appellant - Principles of natural justice not violated by Additional DGFT in passing ex parte order - Para 2.8(c) of Export-Import Policy 1992-97 - Section 5 of Foreign Trade (Development and Regulation) Act, 1992.

(Emphasis Supplied)"

(d) The Hon'ble CESTAT, Mumbai in the case of **GOPINATH CHEM TECH. LTD Vs. COMMISSIONER OF CENTRAL EXCISE, AHMEDABAD-II** reported in 2004 (171) E.L.T. 412 (Tri. - Mumbai), has observed that;

"Natural justice - Personal hearing fixed by lower authorities but not attended by appellant and reasons for not attending also not explained - Appellant cannot now demand another hearing - Principles of natural justice not violated. [para 5]

(Emphasis Supplied)"

(e) The Hon'ble Supreme court in the case of **F.N. ROY Versus COLLECTOR OF CUSTOMS, CALCUTTA AND OTHERS** reported in 1983 (13) E.L.T. 1296 (S.C.), has observed as under:

"Natural justice – Opportunity of personal hearing not availed of – Effect – Confiscation order cannot be held mala fide if passed without hearing.

- If the petitioner was given an opportunity of being heard before the confiscation order but did not avail of, it was not open for him to contend subsequently that he was not given an opportunity of personal hearing before an order was passed. [para 28]

(Emphasis Supplied)"

(f) The Hon'ble Supreme Court in the matter of **JETHMAL Versus UNION OF INDIA** reported in 1999 (110) E.L.T. 379 (S.C.), has observed as under;

"7. Our attention was also drawn to a recent decision of this Court in A.K. Kripak v. Union of India - 1969 (2) SCC 340, where some of the rules of natural justice were formulated in Paragraph 20 of the judgment. One of these is the well-known principle of audi alteram partem and it was argued that an ex parte hearing without notice violated this rule. In our opinion this rule can have no application to the facts of this case where the appellant was asked not only to send a written reply but to inform the Collector whether he wished to be heard in person or through a representative. If no reply was given or no intimation was sent to the Collector that a personal hearing was desired, the Collector would be justified in thinking that the persons notified did not desire to appear before him when the case was to be considered and could not be blamed if he were to proceed on the material before him on the basis of the allegations in the show cause notice. Clearly, he could not compel appearance before him and giving a further notice in a case like this that the matter would be dealt with on a certain day would be an ideal formality."

20.1. Further, it would be pertinent to mention and discuss the verdict of Hon'ble High Court of Madhya Pradesh in the case of **FUTURE CONSUMER LIMITED vs. THE STATE OF MADHYA PRADESH AND OTHERS (2024) 08 CCHGST 1187 MPHC.**

Demand and recovery of tax – Assessee was Public Limited company and it was Food led-FMCG brand engaged in business of branding, manufacturing, processing, selling and distribution of consumer products – Authority served notice in form GST ASMT-10 to assessee intimating discrepancies in return after scrutiny and assessee was directed to explain reasons for said discrepancies – Assessee did not appear before authority, therefore, show-cause notice under Section 73(1) of GST Act was issued directing assessee to appear on 25.09.2023 – Since assessee neither appeared nor filed reply hence, final order was passed by Deputy Commissioner under Section 73 of GST Act, whereby tax liability of Rs.86,73,188 interest and penalty, in total 1,16,65,438 had been imposed on assessee – Assessee had filed present petition challenging order passed by Deputy Commissioner under Section 73 of GST Act – Held, assessee neither appeared nor filed reply hence, final order was passed – Assessee did not prefer any appeal within period of limitation and directly approached High Court by way of writ petition solely on ground that opportunity of personal hearing as contemplated under Section 75(4) of GST Act had not been afforded

to him – As per sub-Rule 4 opportunity of personal hearing should be granted where request was received in writing from person chargeable with tax or penalty – Even if request was not received in writing, oral request was also liable to be accepted – When person after receipt of show-cause notice choose not to appear before authority to file reply or to make request for personal hearing, then after passing final order, he could not allege that opportunity of hearing had been denied to him – Petition dismissed.

When person after receipt of show-cause notice choose not to appear before authority to file reply or to make request for personal hearing, then after passing final order, he could not allege that opportunity of hearing had been denied to him

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20.2 Further, it would be pertinent to mention and discuss the verdict of Hon'ble High Court of Patna in the case of **M/s. National Enterprises Versus Union of India**, as reported at **2021(55) G.S.T.L. 294 (Pat.)**, wherein, though the plea of the Petitioner was upheld, Hon'ble Court had categorically discussed the basic ingredients of Ex- Parte Order and defines that such Ex Parte Order would be bad in law for two reasons: -

- (a) Violation of principles of natural justice, i.e. fair opportunity of hearing; no sufficient time afforded to petitioner to represent his case and;
- (b) Order passed ex parte in nature, does not assign any sufficient reasons which may even be decipherable from record, as to how officer could determine amount due and payable by assessee.

21. Analysis of Evidence and Fraudulent Activities

21.1 Upon careful examination of the Show Cause Notice and the facts available on record in form of panchnama regarding search/inspection at the Principal Places of Business i.r.o., M/s. Gautam Exim Limited (GSTIN-24AACCG7701P1ZF), M/s. Jay Bharat Metcast Pvt. Ltd., (GSTIN: 24AACCJ8923A1ZX), M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6) , M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW), M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX), M/s Vandana Enterprises (GSTIN-24AGCPJ7828F1ZI) narrated in para supra and summons sent during the course of investigation, it is evident that M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6) , M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW), M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX) narrated in para supra are fake and non-existing. Neither Proprietors were turned up for the statement after issuing various summons.

21.2 Therefore, it appeared that the GST registrations were obtained fraudulently by M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6), M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW), M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX) without engaging in any genuine business operations. The noticee has availed and passed on ineligible Input Tax Credit without any actual receipt or supply of goods, thereby defrauding the government exchequer. It therefore appeared that the transactions made between M/s Ganpati Traders

(GSTIN: 26AHIPP8549A1Z6), M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW), M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX) and its 03 recipients mentioned in para supra were merely paper transactions and no physical goods were either received by M/s. Gautam Exim Limited (GSTIN-24AACCG7701P1ZF), M/s. Jay Bharat Metcast Pvt. Ltd., (GSTIN: 24AACCG7701P1ZF) and M/s Vandana Enterprises (GSTIN-24AGCPJ7828F1ZI) and therefore, all the transactions undertaken were in contravention to Section 16 of the CGST Act, 2017.

21.3 Since the M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6), M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW), M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX) who have fraudulently availed and passed on the ineligible ITC to various recipients as enumerated in para supra did not contest the Show Cause Notice or appear for personal hearings, this constitutes an implied admission of its fraudulent activities which is further corroborated by visit made on the premise of M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6), M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW), M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX) and it is observed that during proceedings search conducted on 25.11.2020 at the registered premise of M/s Ganpati Traders, Silvassa. It has been noticed that the premises is a residential premises and Mrs. Sujata Nitin Ingle was living there with her family. Further, on being asked about M/s Ganpati Traders, Silvassa or its proprietor Shri Durgesh Paneri, Mrs. Sujata Nitin Ingle has stated that she does not know anything about M/s Ganpati Traders, Silvassa or its proprietor Shri Durgesh Paneri. Further, an inquiry / search at PPOB of M/s Ganpati Traders, Silvassa has also been conducted at the said premises on 22.10.2020 by CGST and Central Excise, Daman and During search, no business activities had been noticed and no documents related to M/s Ganpati Traders, Silvassa has been found from the premises. Further various summons were also issued to tender their statement. The evidence gathered during the investigation, including the Panchanama proceedings, GST return analysis unambiguously confirms that the firms were created solely to facilitate fraudulent ITC transactions. The complete absence of any business infrastructure, and the alleged proprietor of any knowledge about the firm, the lack of any financial transactions, and the absence of any goods movement collectively establish beyond any reasonable doubt that this was a well-orchestrated fraud designed to generate and pass on illegitimate tax credits. This fraudulent activity resulted in significant revenue loss to the government and undermined the self-assessment mechanism of the GST system.

21.4 The provisions of the CGST Act, 2017, explicitly mandate that Input Tax Credit can only be availed if the registered taxpayer meets all necessary statutory conditions. Section 16 of the CGST Act, 2017, provides that a registered person shall be entitled to take credit of input tax charged on any supply of goods or services, provided that the recipient is in possession of a valid tax invoice issued by a registered supplier, has actually received the goods or services, the tax charged has been actually paid to the government, and the return under Section 39 has been furnished. The noticee's have blatantly disregarded these fundamental statutory requirements and has fraudulently availed and passed on Input Tax Credit without any actual receipt of goods or services, which constitutes a direct violation of the law and undermines the entire structure of the GST system.

21.5 The non-appearance of the some noticees for personal hearings, despite multiple opportunities, coupled with their failure to respond to the Show Cause Notice, constitutes an implied admission of guilt. The silence of the noticee in the face of overwhelming evidence further strengthens the case against them.

21.6 The Hon'ble Supreme Court, High Courts and Tribunals have in plethora of cases categorically held that fraudulent ITC claims must be dealt with strictly as they pose a serious threat to the integrity of the GST system. The Hon'ble Allahabad High Court, in *Kay Pan Fragrance Pvt. Ltd. v. Commissioner of CGST* [2022 (63) G.S.T.L. 385 (All.)], has further reinforced that ITC claimed without actual receipt of goods is fraudulent and must be reversed. The noticee has engaged in precisely such fraudulent activities, making its actions not only legally untenable but also a calculated attempt to defraud the government.

21.7 The contraventions committed by the noticee firms are multiple and severe. The firms have violated Section 16(1) and 16(2)(b) of the CGST Act, 2017, by availing Input Tax Credit without actual receipt of goods and without meeting the prerequisite conditions for credit entitlement. The firm has further violated Section 31 of the CGST Act, 2017, by issuing tax invoices without any underlying supply of goods, which constitutes a fundamental breach of the invoice system that forms the backbone of GST compliance. Additionally, the firm has contravened Section 35 of the CGST Act, 2017, by failing to maintain proper business records at the declared principal place of business, and Section 49 of the CGST Act, 2017, by utilizing fraudulent ITC for discharging fictitious tax liabilities. Therefore, I find that the present demand invoking extended period under Section 74(1) for fraudulent and wrong availment and utilization of input tax credit is required to be confirmed and recovered from the noticee under Section 74(1) of the CGST Act, 2017 read with Section 74(1) of the GGST Act, 2017 and Section 20 of IGST Act, 2017. Also, the

demand of interest on the wrongly availed and utilized input tax credit of is required to be confirmed and recovered from them under the provisions of Section 50 of the CGST Act, 2017 read with Section 50 of the GGST Act, 2017.

21.8 The reflection of invoices in GSTR-2A is an auto-populated entry based on data uploaded by the supplier in GSTR-1. It is not conclusive proof of actual movement of goods or receipt of services as observed by Patna High Court in *Aastha Enterprises v. State of Bihar*. Further, In *Suncraft Energy Pvt. Ltd. v. Asst. Commissioner, Calcutta High Court* observed that Credit can be denied if Department establishes that supplies are merely paper transactions even if invoices appear in GSTR-2A. Here, it is clearly established by the department that the **M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6), M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW), M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX)** are bogus firms and no business has actually been conducted and only paper transaction was done. Further, the tax paid on outward supplies of the noticee relates to a distinct taxable event and cannot sanitize illegality in availing input tax credit. ITC and output tax are separate statutory obligations – payment of one does not offset violation of the other. In *CCE v. Rajasthan Spinning & Weaving Mills Ltd.* [2010 (255) ELT 481 (SC)] observed that Cenvat credit can be denied even if duty on final products has been paid, where inputs are not proved to have been received. Under Section 155 of the CGST Act, the burden of proving admissibility of ITC lies upon the claimant. The taxpayer must provide proofs linking the supply chain.

21.9 The plea of “revenue neutrality” is irrelevant under GST because the system is transaction-based, not factory-based like erstwhile CENVAT; and Fraudulent or ineligible ITC affects the electronic credit ledger, enabling unjust utilization.

Therefore, neutralization cannot be presumed where foundational eligibility itself is in question. *CCE v. Narmada Chematur Petrochemicals Ltd.* [2005 (179) ELT 276 (SC)] distinguished revenue neutrality applies only where credit and liability arise within the same entity and are otherwise admissible. The principle against “approbate and reprobate” does not restrain the Department from pursuing alternate legal grounds in distinct contexts – one for tax collection from supplier, another for credit reversal from recipient. GST is a self-assessment regime; both parties are independently responsible for compliance. In *Suresh Trading Co. v. State of Maharashtra* [1998 (109) STC 439 (SC)] Supreme Court of India observed that Purchaser must verify the genuineness of supplier; bona fide belief does not absolve liability when supplier is found non-existent.

21.10 Constitutional Argument under Article 265 is Misconceived since Article 265

bars unauthorized levy or retention of tax, but denial of ITC is not a levy — it is a disallowance of concession granted subject to conditions. Failure to fulfill such statutory conditions is not unconstitutional.

21.11 I find that the mere fact of banking transactions or transfer of funds through RTGS does not, by itself, establish the actual physical movement of goods or the receipt of taxable supply. The payment through banking channels can, at best, indicate a financial transaction but not the genuineness of the supply, unless corroborated by corresponding documents evidencing transportation, delivery, and receipt of goods such as e-way bills, goods receipt notes, transport challans, weighment slips, stock register entries, and inward gate records. In the absence of such corroborative evidence, the payment through bank cannot be considered conclusive proof of receipt of goods. The Hon'ble Supreme Court in *CCE v. Rajasthan Spinning & Weaving Mills Ltd.* [2010 (255) ELT 481 (SC)] and *CCE v. Dhanalaxmi Fabrics Pvt. Ltd.* [2015 (322) ELT 705 (SC)] has held that financial transactions or book entries do not substitute the statutory requirement of proving actual receipt of goods for the purpose of claiming credit. Similarly, the Hon'ble Patna High Court in *Aastha Enterprises v. State of Bihar* [2023 (76) GSTL 1 (Patna)] has categorically observed that GSTR-2A entries and banking transactions cannot be treated as proof of actual movement of goods in absence of transport and stock records.

21.12 I find that the supplier was found non-existent, indicating that the firm was bogus and not engaged in any actual supply. Mere production of invoices, ledgers, or bank statements, without supporting documents such as e-way bills, goods receipt notes, transport challans, or stock entries, cannot establish receipt of goods as mandated under Section 16(2)(b) of the CGST Act, 2017. It is well settled by the Hon'ble Supreme Court in *CCE v. Kalvert Foods India Pvt. Ltd.* [2011 (270) ELT 643 (SC)] and *V.K. Enterprises v. CCE* [2010 (249) ELT 462 (SC)] that credit based on invoices from non-existent firms is inadmissible. Therefore, the documents produced by the noticee, being uncorroborated and pertaining to a cancelled registration, have no evidentiary value, and the contention lacks merit.

21.13 After careful consideration of the submissions and records of M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6), M/s. Gautam Exim Limited (GSTIN-24AACCG7701P1ZF), M/s Vandana Enterprises (GSTIN-24AGCPJ7828F1ZI), it is observed that the invoices issued by M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6), M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW), M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX) to M/s. Gautam Exim Limited (GSTIN-24AACCG7701P1ZF), M/s. Jay Bharat Metcast Pvt. Ltd., (GSTIN: 24AACCJ8923A1ZX) and M/s Vandana Enterprises (GSTIN-24AGCPJ7828F1ZI) have been issued without actual receipt of goods and Non-existence of transporter

itself verified the fact that no goods can be supplied without genuine/existent transporter.

22. I further find that it can be concluded that the investigation, initiated by the officers of Directorate General of Goods and Services Tax Intelligence, Surat Zonal Unit that M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6), M/s. Gautam Exim Limited (GSTIN-24AACCG7701P1ZF), M/s Vandana Enterprises (GSTIN-24AGCPJ7828F1ZI) issued fake invoices to M/s. Gautam Exim Limited (GSTIN-24AACCG7701P1ZF), M/s. Jay Bharat Metcast Pvt. Ltd., (GSTIN: 24AACCJ8923A1ZX), M/s Vandana Enterprises (GSTIN-24AGCPJ7828F1ZI) have been issued without actual receipt of goods, uncovered a widespread and well-coordinated racket involving multiple entities— M/s. Gautam Exim Limited (GSTIN-24AACCG7701P1ZF) and 05 others. These 03 entities M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6), M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW), M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX) were found to be non-existent at their declared principal places of business and were created solely for the purpose of generating and passing on fraudulent Input Tax Credit (ITC) without any actual movement of goods. Inspections at the registered addresses revealed that premises were either residential, vacant, or locked, with no sign of commercial activity, business infrastructure, or records such as invoices, stock registers, or rent agreements. Financial analysis of bank accounts showed that no genuine business transactions, thereby confirming that these firms existed only on paper. Through this network, ITC amounting to several crores of rupees was fraudulently availed and passed on through circular trading, with invoices raised and credit transferred without any actual receipt or supply of goods. The pattern of transactions, corroborated by inspection reports, GSTN data, and financial trail, conclusively established that these entities were deliberately created to defraud the government exchequer by availing and passing ineligible ITC. I find that the conduct of the parties involved clearly falls under Section 74(1) of the CGST Act, 2017, indicating willful misstatement and suppression of facts to evade tax. Accordingly, recovery of ineligible ITC along with interest and penalties has been proposed, and penal proceedings under Sections 122(1)(ii), 122 (1)(vii) of the CGST Act, 2017 have been invoked against the entities involved in this orchestrated fake invoicing and ITC fraud.

23. The provision of Section 16 of the CGST Act, 2017 is as under: -

Section-16 of the CGST Act, 2017- Eligibility and conditions for taking input tax Credit

*“(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;
- 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 to 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;]*
- a. *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*
- b. *he has furnished the return under section 39: Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:*

(4)..... ”

24. The provisions of sub section 2 of Section 16 of the CGST Act, 2017 read with the provisions of the corresponding SGST Act, 2017 is reiterated wherein interalia it is mentioned as 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..... (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 utilization of input tax credit admissible in respect of the said supply----. From the discussion held supra, it is found that the Taxpayer has availed input tax credit without actual receipt of the goods and has violated the provisions of Section 16 of the CGST Act, 2017 read with the provisions of SGST Act, 2017 in as much as (i) M/s. Gautam Exim and 05 others fail to submit necessary documents i.e. Toll receipt, valid Transportation documents / Lorry Receipts, Weighbridge slip etc. during the investigation proceedings nor during the adjudication proceedings, (ii) Input tax credit has been availed without actual receipt of the goods or services or both.

25. As per available facts I find that the noticee(s) did not receive any actual inward supplies and that the invoices issued by the purported suppliers lacked any genuine movement of goods or services. Consequently, the Input Tax Credit (ITC) availed appears to be based on fake invoices without any underlying supply. Despite being issued multiple summonses on various dates, the noticee(s) failed to provide any supporting evidence to validate the legitimacy of the ITC claimed.

These findings indicate that the noticee, in collusion with suppliers and recipients, engaged in a fraudulent arrangement to claim ineligible ITC without bearing the actual tax burden. This fraudulently availed ITC was used to discharge outward tax liabilities and passed on to downstream recipients, causing a substantial and deliberate loss to the Government exchequer.

26. I find that during the investigation; it is noticed that the ITC availed / utilized by the noticee / co-noticee(s) as per their GSTR-3B is different from the ITC available in their GSTR-2A indicating that the inadmissible ITC had been availed through fake invoices without actual receipt of goods and wrongfully generated excess ITC. In this context, it is pertinent to discuss the trade facilitation measures extended by the board. I find that, to ease out the difficulties faced by the trade in such cases, CBIC vide Circular No. 183/15/2022-GST dated 27.12.2022 as well as Circular No. 193/05/2023-GST dated 17.07.2023 had provided a clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for FY 2017-18, 2018-19 and for the period respectively. Before proceeding further, I would like to emphasize that these instructions are applicable for present adjudication proceedings as mentioned in the circular.

27. I find that the subject circulars provides that in case where invoices are not reflected in GSTR-2A, proper officers needs to ascertain fulfillment of conditions namely (i) possession of invoice (ii) receipt of goods and (iii) payment to the supplier. Coming to the facts of present case, I note that the ITC has been disallowed due to non-fulfillment of condition mentioned at Section 16(2) (b) & 16(2) (c) of CGST Act, 2017.

28. Further, I find that Para 4.1 of the circular referred above provides mechanism to verify the condition of clause (c) of sub-section (2) of Section 16 of CGST Act that tax on the said supply has been paid by the supplier. It is provided that the proper officer shall ask the claimant to produce a certificate from the concerned supplier or the Chartered Accountant, as the case may be, to the effect that said supplies have actually been made to the said registered person and the tax on said supplies has been paid by the said supplier in his return in FORM GSTR 3B. In present case, I find that there was an opportunity for the taxpayer to come forth and provide the documentary evidence to avail the benefits of mentioned circular and discharge their burden as envisaged under Section 155 of CGST Act, 2017. However, taxpayer, neither during the scrutiny or during adjudication proceedings, produced any evidence, much less documentary evidence, to discharge their burden as envisaged under Section 155 of CGST Act, 2017 to prove the genuineness of ITC availed by them during subject period.

29. I further find that the above fact/details clearly highlight the fact that throughout the proceedings, the Noticee has failed to furnish relevant documents with respect to the fake Input Tax Credit availed and passed by them. The failure to furnish material information in spite of repeated requests was deliberate and done with intent to suppress vital information and delay the proceedings initiated against them by the investigation agency. Further, the noticee failed to provide any documentary evidence at the time of scrutiny or during adjudication proceeding to prove the genuineness of ITC claimed by the noticee. I place my reliance in the judgement of Hon'ble Supreme Court in the case of The State Of Karnataka Versus M/S Ecom Gill Coffee Trading Private Limited 2023 (3) TMI 533 - Supreme Court,

wherein Hon'ble apex court held that :

"The provisions of Section 70, in its plain terms clearly stipulate that the burden of proving that the ITC claim is correct lies upon the purchasing dealer claiming such ITC. Burden of proof that the ITC claim is correct is squarely upon the assessee who has to discharge the said burden. Merely because the dealer claiming such ITC claims that he is a bona fide purchaser is not enough and sufficient. The burden of proving the correctness of ITC remains upon the dealer claiming such ITC. Such a burden of proof cannot get shifted on the revenue. Mere production of the invoices or the payment made by cheques is not enough and cannot be said to be discharging the burden of proof cast under section 70 of the KVAT Act, 2003. The dealer claiming ITC has to prove beyond doubt the actual transaction which can be proved by furnishing the name and address of the selling dealer, details of the vehicle which has delivered the goods, payment of freight charges, acknowledgement of taking delivery of goods, tax invoices and payment particulars etc. The genuineness of the transaction has to be proved as the burden to prove the genuineness of transaction as per section 70 of the KVAT Act, 2003 would be upon the purchasing dealer. It is observed and held that mere production of the invoices and/or payment by cheque is not sufficient and cannot be said to be proving the burden as per section 70 of the Act, 2003."

Above case although pertaining to erstwhile state VAT tax statutes however the ratio of above case squarely applies to present case in as much as the burden of proof of correctness of availing the ITC lies on the noticee as envisaged by the Section 155 of CGST Act, 2017, which reads as :

"Section 155. Burden of proof. -

Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person."

Further, I place my reliance in the judgement of Hon'ble Gujarat High Court in case of Shreeji Impex Vs State of Gujarat & 3 2014 (9) Tmi 421, Wherein Hon'ble High Court similarly held that:

"At the outset, it is required to be noted that the appellant claimed the input tax credit of ₹ 1,69,872/- on the purchase of the goods worth ₹ 42,46,800/- from M/s. Leela Trading company and other three vendors. In support of the above claim that they actually purchase the goods worth ₹ 42,46,800/- from M/s. Leela Trading Company and other three vendors, the appellant relied upon the invoices / bills and their books of profit and loss. However, it is required to be noted that not a single document and / or material was placed on record to show the actual movement of the goods from the vendors to appellant. The appellant miserably failed to prove the actual transaction by leading the cogent evidence and miserably failed to prove that purchase on which input tax credit was claimed, were genuine and / or on which the tax was paid."

30. In view of above discussion, I find that – M/s. Gautam Exim Limited (GSTIN-24AACCG7701P1ZF), M/s. Jay Bharat Metcast Pvt. Ltd., (GSTIN: 24AACCJ8923A1ZX), M/s Vandana Enterprises (GSTIN-24AGCPJ7828F1ZI) had availed the ITC without actual receipt of the goods of the amount as mentioned in the subject Show Cause Notice and also the ITC availed by their 03 recipients mentioned in the show cause notice without actual supply of the goods / without any underlying supply of goods in contravention to Section 16 of the CGST Act, 2017. Thus, they appear to have availed fake ITC and violated the conditions specified under section 16(2) of the CGST Act, 2017, wherein it is specified as to what conditions an availer of ITC has to satisfy to make the ITC he avails authentic and admissible.

31. I also find that, as per the clarification issued by CBIC vide Circular No. 171/03/2022-GST and based on the outcome of the investigation, it appears that apart from the demand and recovery of the ineligible Input Tax Credit (ITC) availed and utilized under Section 74(1) of the CGST Act, 2017 along with applicable interest under Section 50(3) of the said Act, noticees are liable to be penalized under Sections 74(1), 122(1)(ii), 122(1)(vii) of the CGST Act, 2017 read with the corresponding provisions of the Gujarat GST Act, 2017 / IGST Act, 2017, for availing ITC in their GSTR-3B returns / electronic credit ledgers without actual receipt of goods and for passing on fake or inadmissible ITC without any underlying supply of goods. Furthermore, as per the said clarification and the findings of the investigation, the ITC fraudulently passed on by **M/s Ganpati Traders, M/s Raghav Industries and M/s Krishna Industries** on the strength of fake invoices without any actual movement of goods is liable to be recovered from their respective recipients along with interest and penalty under the provisions of Sections 74 and 50 of the CGST Act, 2017, read with Section 122 thereof.

32. The Circular No. 171/03/2022 dated 06.07.2022 is re-produced here-under:-

Subject: Clarification on various issues relating to applicability of demand and penalty provisions under the Central Goods and Services Tax Act, 2017 in respect of transactions involving fake invoices-Reg

A number of cases have come to notice where the registered persons are found to be involved in issuing tax invoice, without actual supply of goods or services or both (hereinafter referred to as “fake invoices”), in order to enable the recipients of such invoices to avail and utilize input tax credit (hereinafter referred to as “ITC”) fraudulently. Representations are being received from the trade as well as the field formations seeking clarification on the issues relating to applicability of demand and penalty provisions under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), in respect of such transactions involving fake invoices. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issues detailed hereunder.

Sl. No.	Issues	Clarification
1	In case where a registered person "A" has issued tax invoice to another registered person "B" without any underlying supply of goods or services or both, whether such transaction will be covered as "supply" under section 7 of CGST Act and whether any demand and recovery can be made from 'A' in respect of the said transaction under the provisions of section 73 or section 74 of CGST Act. Also, whether any penal action can be taken against registered person 'A' in such cases.	Since there is only been an issuance of tax invoice by the registered person 'A' to registered person 'B' without the underlying supply of goods or services or both, therefore, such an activity does not satisfy the criteria of "supply", as defined under section 7 of the CGST Act. As there is no supply by 'A' to 'B' in respect of such tax invoice in terms of the provisions of section 7 of CGST Act, no tax liability arises against 'A' for the said transaction, and accordingly, no demand and recovery is required to be made against 'A' under the provisions of section 73 or section 74 of CGST Act in respect of the same. Besides, no penal action under the provisions of section 73 or section 74 is required to be taken against 'A' in respect of the said transaction. The registered person 'A' shall, however, be liable for penal action under section 122 (1)(ii) of the CGST Act for issuing tax invoices without actual supply of goods or services or both.
2	A registered person "A" has issued tax invoice to another registered person "B" without any underlying supply of goods or services or both. 'B' avails input tax credit on the basis of the said tax invoice. B further issues invoice along with underlying supply of goods or services or both to his buyers and utilizes ITC availed on the basis of the above mentioned invoices issued by 'A', for payment of his tax liability in respect of his said outward supplies. Whether 'B' will be liable for the demand and recovery of the said ITC, along with penal action, under the provisions of section 73 or section 74 or any other provisions of the CGST Act.	Since the registered person 'B' has availed and utilized fraudulent ITC on the basis of the said tax invoice, without receiving the goods or services or both, in contravention of the provisions of section 16(2)(b) of CGST Act, he shall be liable for the demand and recovery of the said ITC, along with penal action, under the provisions of section 74 of the CGST Act, along with applicable interest under provisions of section 50 of the said Act. Further, as per provisions of section 75(13) of CGST Act, if penal action for fraudulent availment or utilization of ITC is taken against 'B' under section 74 of CGST Act, no penalty for the same act, i.e. for the said fraudulent availment or utilization of ITC, can be imposed on 'B' under any other provisions of CGST Act, including under section 122
3	A registered person 'A' has	In this case, the input tax credit availed by 'B' in his

issued tax invoice to another registered person 'B' without any underlying supply of goods or services or both. 'B' avails input tax credit on the basis of the said tax invoice and further passes on the said input tax credit to another registered person 'C' by issuing invoices without underlying supply of goods or services or both. Whether 'B' will be liable for the demand and recovery and penal action, under the provisions of section 73 or section 74 or any other provisions of the CGST Act.	electronic credit ledger on the basis of tax invoice issued by 'A', without actual receipt of goods or services or both, has been utilized by 'B' for passing on of input tax credit by issuing tax invoice to 'C' without any underlying supply of goods or services or both. As there was no supply of goods or services or both by 'B' to 'C' in respect of the said transaction, no tax was required to be paid by 'B' in respect of the same. The input tax credit availed by 'B' in his electronic credit ledger on the basis of tax invoice issued by 'A', without actual receipt of goods or services or both, is ineligible in terms of section 16 (2)(b) of the CGST Act. In this case, there was no supply of goods or services or both by 'B' to 'C' in respect of the said transaction and also no tax was required to be paid in respect of the said transaction. Therefore, in these specific cases, no demand and recovery of either input tax credit wrongly/fraudulently availed by 'B' in such case or tax liability in respect of the said outward transaction by 'B' to 'C' is required to be made from 'B' under the provisions of section 73 or section 74 of CGST Act. However, in such cases, 'B' shall be liable for penal action both under section 122(1)(ii) and section 122(1)(vii) of the CGST Act, for issuing invoices without any actual supply of goods and/or services as also for taking/utilizing input tax credit without actual receipt of goods and/or services.
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2. The fundamental principles that have been delineated in the above scenarios may be adopted to decide the nature of demand and penal action to be taken against a person for such unscrupulous activity. Actual action to be taken against a person will depend upon the specific facts and circumstances of the case which may involve complex mixture of above scenarios or even may not be covered by any of the above scenarios. Any person who has retained the benefit of transactions specified under sub-section (1A) of section 122 of CGST Act, and at whose instance such transactions are conducted, shall also be liable for penal action under the provisions of the said sub-section. It may also be noted that in such cases of wrongful/ fraudulent availment or utilization of input tax credit, or in cases of issuance of invoices without supply of goods or services or both, leading to wrongful availment or utilization of input tax credit or refund of tax, provisions of section 132 of the CGST Act may also be invokable, subject to conditions specified therein, based on facts and circumstances of each case.
3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.
4. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

33. I further find that the above facts / details clearly highlight the fact that throughout the investigation, the noticee / co-noticees, except the co-noticee as mentioned in the instant order, have failed to furnish relevant documents with respect to the fake Input Tax Credit availed and utilized/ passed by them as well as

any other allegation as mentioned in the subject notice. The failure to furnish material information in spite of repeated requests was deliberate and done with intent to suppress vital information and delay the proceedings initiated against them by the department.

34. The provisions of Section 74 of the CGST Act, 2017 is as under:

"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 or utilized 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 been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.

(2) to (6).....

(7) Where the proper officer is of the opinion that the amount paid under subsection (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(8) Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty- five per cent of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.

35. I find that the issues to be decided in the present case is – the admissibility of the ITC availed / utilized and passed on by the entities- M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6), M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW), M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX), without actual receipt of the goods and also the ITC availed by their recipients viz. M/s. Gautam Exim Limited (GSTIN-24AACCG7701P1ZF), M/s. Jay Bharat Metcast Pvt. Ltd., (GSTIN: 24AACCG8923A1ZX), M/s Vandana Enterprises (GSTIN-24AGCPJ7828F1ZI), without actual supply of the goods.

36.1 M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6);

On going through the Show Cause Notice, I find that a search was conducted on 25.11.2020 at the registered premise i.e. A1/204, 1st Yogi Hills, Amli, Silvassa of M/s Ganpati Traders, Silvassa and it was noticed that the premises was a residential premises owned by Shri Nitin Abarao Ingle who was living there since January, 2020 and he doesn't know anything about M/s Ganpati Traders, Silvassa or its proprietor Shri Durgesh Paneri. It is also narrated in the Show Cause Notice that an inquiry / search about M/s Ganpati Traders, Silvassa had already been conducted at the said premises on 22.10.2020 by CGST and Central Excise, Daman. Further, I find that no business activities had been noticed and no documents related to M/s Ganpati Traders, Silvassa had been found from that premises.

Further, as narrated in the Show Cause Notice, I find that summonses dated 10.04.2023 and 13.01.2025 were issued at its registered premises for recording statement, but no one turned up and both the summonses were returned undelivered with the postal remark "Left". After that summons dated 30.01.2025 was issued at the following address available in AIO, BO of the M/s Ganpati Traders, Silvassa.

Sr. No.	Address	Remark
1	Srv No 66 1, Shop No 161, Center Point, Silvassa Vapi Road, Silvassa, Dadra and Nagar Haveli and Daman and Diu, 396230	Returned with remark "Left"
2	Shop No.04, Opp. Tighara Garden, Tighara, U.T. of Dadra and Nagar Haveli Daman and Diu 396193	Returned with remark "Left"
3	Shri Durgesh Paneri S/o Hari Mohan Panari, 105 Dwrika Colony, Bhilwara, Rajasthan-311001	No response has received

In view of the above, I find that the firm M/s Ganpati Traders, Silvassa is a non-existent firm at its principal place of business and it was created fraudulently to avail and pass on fake and bogus ITC on the basis of fake invoicing without receipt/supply of any goods and/or services.

36.2 M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW);

On going through the Show Cause Notice, I find that a search was conducted on 25.11.2020 at the registered premises of M/s. Krishna Industries (GSTIN-26ALEPP9431H1ZW), Ground Floor, A/3-104, Bramand Complex, Amli Dayat Falia, Silvassa, Dadra and Nagar Haveli and Daman and Diu, 396230 and it was noticed that Bramand Complex has 4 blocks from A1 to A4 with 6 shops in each block, from A/1-1 to A4-24 and no such firm existed there.

Further, a summons dated 10.04.2023 was issued to Shri Pawan Kumar Prabhudayal Pareek, proprietor of M/s. Krishna Industries for recording statement. In response, Shri Pawan Kumar Prabhudayal Pareek turned up and he stated that he was the proprietor of firm; all the work related to sell-purchase, accounting, marketing and finance were being handled by him only; They had sold their scrap to only M/s Gautam Exim Limited, Vapi and M/s Jay Bharat Metcast Pvt. Ltd., Vapi using local tempo for transportation.

Further, summonses dated 13.01.2025 & 30.01.2025 were issued at its registered PPOB for recording statement, but no one turned up for statement.

In view of the above, I find that the firm M/s. Krishna Industries (GSTIN-26ALEPP9431H1ZW) is a non-existent firm at its principal place of business and it was created fraudulently to avail and pass on fake and bogus ITC on the basis of fake invoicing without receipt/supply of any goods and/or services.

36.3 M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX);

On going through the Show Cause Notice, I find that a search was conducted on 25.11.2020 at the registered premises of M/s Raghav Industries (GSTIN-26BQWPS1030B1ZX), Shop No. 10, KP Vihar, opp. Essar Petrol Pump, Dadra, Dadra and Nagar Haveli 396193 but the shop was found closed and on

opening the shop, it was noticed that some interior work was under process and no documents were available there and no business activity was noticed there. Further, on being called on mobile number of Shri Niranjana Khubchand Sharma, available on GST portal, he informed that he was out of town and informed that DGGI, RU Vapi had already conducted a search dated 09.11.2020 and seized some documents. DGGI, RU Vapi noticed that a shop of curtains, sofa cover, wallpaper etc. was operational from the said premises.

On going through the panchnama dated 09.11.2020, it is observed that officers of DGGI, RU Vapi had visited the registered premises of M/s Raghav Industries, Shop No 5, Ground Floor, Shilpam Apartment, Near Gayatri Mandir, Silvassa, Dadra & Nagar Haveli and they noticed that a shop of curtains, sofa cover, wallpaper etc. was operational from the said premises. On being inquired about M/s Raghav Industries, Silvassa and its proprietor Shri Niranjana Khubchand Sharma, a person available there informed that he was not aware of M/s Raghav Industries or its proprietor and he was engaged in trading and repairing of sofa, curtains etc. from the premises for last one year and the said premises did not belong to M/s Raghav Industries, Silvassa. Further, on being contacted to Shri Niranjana Khubchand Sharma on his mobile phone available on GST portal, he informed that his present office address was Shop No. 10, KP Vihar, Survey No. 400/1, opp. Essar Petrol Pump, Dadra, Dadra and Nagar Haveli 396193, but till now he had not changed the address on GST portal. After that the officers reached Shop No. 10, KP Vihar, Survey No. 400/1, opp. Essar Petrol Pump, Dadra, Dadra and Nagar Haveli 396193 and found that the said premises was a shop and some books, files and records were there. Shri Niranjana Khubchand Sharma was available there and informed that they are engaged in trading M.S. scrap. Further, on being asked about the stock, he informed that they did not have any stock because they purchased scrap only when they get order from their customers. After receiving order, they purchase M.S. scrap from Surat and sell it directly to their customers.

In view of the above, I find that the firm M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX) is a non-existent firm at its principal place of business and it was created fraudulently to avail and pass on fake and bogus ITC on the basis of fake invoicing/documentation without receipt/supply of any goods and/or services as they don't manufacture or stock any type of goods.

36.4 M/s. Gautam Exim Limited (GSTIN-24AACCG7701P1ZF);

On going through the Show Cause Notice, I find that search was conducted at the registered premises of M/s. Gautam Exim Limited, Vapi, C 7 57 58 59, 1st floor, Vapi, Valsad 396195 and Shri Raman Balasubramanian, Managing Director of M/s Gautam Exim Limited, Vapi has stated that ; M/s Gautam Exim Limited, Vapi was engaged in the trading of paper scrap since 2000 and M.S. metal scrap since the year 2010; The primary source for procuring waste paper was import. The sell of waste paper is on high sea sell basis to their clients/customers. Additionally, they purchase M.S. metal scrap from local vendors such as M/s Raghav Industries, Silvassa, M/s Krishna Industries, Silvassa, M/s Ganpati Traders, Silvassa and M/s Manish Scrap, Vapi etc. and sold it to only M/s Jay Bharat Metcast Pvt. Ltd., Vapi on a "Bill to" and "Ship to" basis,;

On being asked about Shri Durgesh Paneri, proprietor of M/s Ganpati Traders, Silvassa, Shri Pawan Kumar Prabhudayal Pareek, proprietor of M/s Krishna Industries, Silvassa and Shri Niranjana Khubchand Sharma, proprietor of

M/s Raghav Industries, Silvassa, Shri Raman Balasubramanian stated that he personally didn't know anyone.

In view of the above, it is very evident that M/s Gautam Exim Limited, Vapi was taking fake invoices from the non-existent suppliers and availing ITC accordingly.

36.5 M/s. Jay Bharat Metcast Pvt. Ltd., (GSTIN: 24AACCJ8923A1ZX);

On going through the Show Cause Notice, I find that search was conducted on 25.11.2020 at the registered premises of M/s Jay Bharat Metacast Pvt. Ltd. Survey No 57/2, Vapi, Village Morai, Vapi, Ta Pardi, Valsad, Gujarat, 396195 and that they were engaged in manufacturing of TMT bars for Kamdhenu for which the raw material i.e. metal scrap was procured by import and by purchasing from M/s Gautam Exim Limited, Vapi on a "Bill to" and "Ship to" basis and that they don't know about Shri Durgesh Paneri, proprietor of M/s Ganpati Traders, Silvassa, Shri Pawan Kumar Prabhudayal Pareek, proprietor of M/s Krishna Industries, Silvassa and Shri Niranjana Khubchand Sharma, proprietor of M/s Raghav Industries, Silvassa.

36.6 M/s Vandana Enterprises (GSTIN 24AGCPJ7828F1ZI);

As narrated in the Show Cause Notice, M/s Vandana Enterprises, Vapi has taken ITC of Rs. 3,78,000/- on the basis of invoices issued by non-existent supplier M/s Krishna Industries, Silvassa.

37. Further, as narrated in the Show Cause Notice, I find that the most of the suppliers of the suppliers i.e. M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6), M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW), M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX), are fake and non-existent. 07 out of 09 suppliers of M/s Ganpati Traders, Silvassa were found fake and non-existent. Similarly, 09 out of 10 suppliers of M/s Krishna Industries, Silvassa were found fake and non-existent. And also, 30 out of 48 suppliers of M/s Raghav Industries, Silvassa were found fake and non-existent.

38. Further, as narrated in the Show Cause Notice, I find that transporters i.e. M/s R. D. Logistics, Silvassa and M/s Jay Shree Gopal Roadline, Vapi in relation to M/s Ganpati Traders, Silvassa, M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa were fake as they were not registered as goods transport agency, addresses of them were incomplete and the PANs used by them do not correspond to them. Hence, fake LRs were used for showing fake supply of goods as genuine by M/s Ganpati Traders, Silvassa, M/s Krishna Industries, Silvassa and M/s Raghav Industries, Silvassa.

In view of above, it is evident that network of non-existent firms created for the purpose of generating fake invoices and passing on inadmissible Input Tax Credit (ITC) without any actual movement of goods and verification of transporters also reveals that both the GSTN of the transporters were obtained for fraudulent activities.

39. The provisions of the CGST Act, 2017, explicitly mandate that Input Tax Credit can only be availed if the registered taxpayer meets all necessary statutory

conditions. Section 16 of the CGST Act, 2017, provides that a registered person shall be entitled to take credit of input tax charged on any supply of goods or services, provided that the recipient is in possession of a valid tax invoice issued by a registered supplier, has actually received the goods or services, the tax charged has been actually paid to the government. The noticees have blatantly disregarded these fundamental statutory requirements and has fraudulently availed and passed on Input Tax Credit without any actual receipt of goods or services, which constitutes a direct violation of the law and undermines the entire structure of the GST system.

40. The Hon'ble Supreme Court, High Courts and Tribunals have in plethora of cases categorically held that fraudulent ITC claims must be dealt with strictly as they pose a serious threat to the integrity of the GST system. The Hon'ble Allahabad High Court, in *Kay Pan Fragrance Pvt. Ltd. v. Commissioner of CGST* [2022 (63) G.S.T.L. 385 (All.)], has further reinforced that ITC claimed without actual receipt of goods is fraudulent and must be reversed. The noticees have engaged in precisely such fraudulent activities, making its actions not only legally untenable but also a calculated attempt to defraud the government.

41. The contraventions committed by the noticees are multiple and severe. The noticees have violated Section 16(2)(b), 16(2)(c) of the CGST Act, 2017, by availing Input Tax Credit without actual receipt of goods and without meeting the prerequisite conditions for credit entitlement. The notices have also further violated Section 37, 38, 39 of the CGST Act, 2017, Therefore, I find that the present demand invoking extended period under Section 74(1) for fraudulent and wrong availment and utilization of input tax credit is required to be confirmed and recovered from the noticees under Section 74(1) of the CGST Act, 2017 read with Section 74(1) of the GGST Act, 2017 and Section 20 of IGST Act, 2017. Also, the demand of interest on the wrongly availed and utilized input tax credit is required to be confirmed and recovered from them under the provisions of Section 50 of the CGST Act, 2017 read with Section 50 of the GGST Act, 2017.

42. After careful consideration of the submissions and records of M/s Gautam Exim Ltd (GSTIN-24AACCG7701P1ZF), it is observed that the contention of the noticee is not acceptable as the noticee has availed Input Tax Credit on the basis of fake invoices issued by M/s Ganpati traders, Silvassa which is fake and non-existent firm. The noticee has not complied the conditions stipulated in Section 16 of CGST Act, 2017 as the movement of goods is not involved in transactions made with the supplier. Contention of the noticee that term 'received' can not be equated with 'physical' receipt, is not acceptable as the provisions of the Section 16 of the CGST Act, 2017 mandates the physical movement/receipt of the goods. Further, the noticee has contended in their submission that transfer of title in goods implies actual delivery of goods. I am not satisfied with the contention of the noticee as the

transfer of title in goods involves movement of goods clearly in terms of section 16 of the CGST Act, 2017. The Noticee contended that they had rightly availed ITC on the material received from the suppliers and the ITC cannot be denied to the Noticee on the ground that the supplier's supplier is fake/bogus/ non-genuine/ non-existent. I am totally disagree with the contention of the noticee, a fake supply/fake invoice received from non-existent supplier can not be accounted in their books of account without receipt of the underlying goods. Further, the Noticee contended that they are not liable to reverse the ITC on supplies procured from suppliers whose registrations were active at the time of availment of the ITC and were cancelled subsequently with retrospective effect. This is not agreed as the supplier physically does not exist and is active on papers to pass on fake ITC fraudulently. The noticee further contended that demand proceedings initiated and imposition of penalty under Section 74 (1) of the CGST Act, respectively, is unsustainable and unwarranted due to absence of fraud, suppression, etc. I find from the investigation conducted as discussed in the Show Cause Notice that the all the Noticees had availed fake and fraudulent ITC without actual receipt of any goods and/or services. The act of availing ITC merely on the basis of invoices without actual receipt of goods and/or services renders the invoices ineligible, unlawful and fake and such invoices cause injury to the interest of revenue as they make way for wrongful flow of Input Tax Credit against which the revenue gets nothing. GST is designed as a value-added taxation scheme with seamless flow of credit of taxes paid at every stage. The invoices are the central pillars of the whole design of GST since they have been bestowed with the authority as an instrument to carry and pass on Input Tax Credit. However, the legislature has fastened certain statutory conditions and restrictions, to prevent the misuse of the mechanism of invoice-based ITC flow. The invoices issued in violation of statutory conditions and restrictions lose their legitimacy and authority as an instrument to carry and pass on Input Tax Credit, and the Input Tax Credit availed on such invoices becomes fraudulent. As the noticees have fraudulently availed ITC merely on the basis of invoices without actual receipt of goods and/or service by reason of fraud and therefore the ITC so availed is recoverable under Section 74(1) of the CGST Act, 2017 along with penal action under Section 74 of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017. Further, concealment of the fact that the supplier was non-existent and that the invoices were not backed by any physical movement of goods constitutes deliberate suppression intended to avail inadmissible credit. The Hon'ble Supreme Court in *CCE v. Chemphar Drugs & Liniments* [1989 (40) ELT 276 (SC)] and *Union of India v. Rajasthan Spinning & Weaving Mills Ltd.* [2009 (238) ELT 3 (SC)] has held that suppression of material facts with intent to evade duty justifies invocation of extended period and penalty. Accordingly, the provisions of Section 74(1) have been rightly invoked in this case, and the consequential demand of tax, interest under Section 50, and penalty equivalent to the tax amount are legally sustainable.

43. Further, after careful consideration of the submissions and records of **M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6)**, it is observed that the contention of the noticee is not acceptable as the noticee's firm does not exist, and in spite of being non-existent, they have availed and passed on fake ITC. The noticee has not complied the conditions stipulated in Section 16 of CGST Act, 2017 as the movement of goods is not involved in transactions made with the suppliers/recipients. Further, the noticee has contended in their submission that an application for change of business address was filed on 17.11.2020 and the search was conducted at the former place of business on 25.11.2020. But from the records

available, it is found that the application of change of business address was filed on 17.11.2020 just after the search conducted on 22.10.2020 by the officers of CGST & CE, Daman Commissionerate who didn't find the firm at the given address but it was a flat owned by Shri Nitin Abarao Ingle who had been residing there since January, 2020. Further, summonses were sent to the noticee at three addresses which were available at AIO/BO that are: (i) Srv No 66 1, Shop No 161, Center Point, Silvassa Vapi Road, Silvassa, Dadra and Nagar Haveli and Daman and Diu, 396230, (ii) Shop No.04, Opp. Tighara Garden, Tighara, U.T. of Dadra and Nagar Haveli Daman and Diu 396193 (*address of the firm after amendment*) and (iii) Shri Durgesh Paneri S/o Hari Mohan Panari, 105 Dwrika Colony, Bhilwara, Rajasthan-311001 but the noticee did not turn up. It shows the intention of the noticee that the firm was created fraudulently to avail and pass on fake and bogus ITC on the basis of paper transaction, without receipt/supply of any goods and/or services.

44. Further, after careful consideration of the submissions and records of **M/s Vandana Enterprises (GSTIN 24AGCPJ7828F1ZI)**, the noticee has contended that they are eligible to claim ITC; it is observed that the contention of the noticee is not acceptable as they have claimed ITC on the basis of fake invoices issued by non-existent supplier i.e. M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW). The noticee have not complied the conditions stipulated in Section 16 of CGST Act, 2017 as the movement of goods is not involved in transactions made with the suppliers, in other words the ITC was availed by M/s Vandana Enterprises (GSTIN 24AGCPJ7828F1ZI) on the basis of fake invoices issued by non-existent supplier i.e. M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW) without receipt of underlying goods.

45. In view of the foregoing, I find that the firms have willfully violated the provisions of the CGST Act, 2017, with the sole intent of defrauding the government by availing and passing on ineligible ITC. The fraudulent activities of the noticee are not only punishable under the penal provisions of the CGST Act but also demand strict enforcement to deter such systematic frauds. Therefore, the penalties proposed in the Show Cause Notice are fully justified and legally enforceable against the noticees.

46. In view of the foregoing findings and discussions elaborated above, and after considering the material available on record, I hereby pass the following order under the relevant provisions of the Central Goods and Services Tax Act, 2017, the SGST/UTGST/UTGST Act, 2017, and the Integrated Goods and Services Tax Act, 2017:

::ORDER::

46.1 M/s Gautam Exim Limited (GSTIN-24AACCG7701P1ZF)

(i) I confirm the demand of fraudulently availed Input Tax Credit amounting to ₹ 12,38,96,621/- and its recovery against M/s Gautam Exim Limited, (GSTIN-

24AACCG7701P1ZF), 2nd Floor, Plot No. 29, Pavitra, Chharwada Road, GIDC, Vapi, Shri Ghatkopar Sweet & Farsan, Opp. Sargam Society, Vapi, Valsad, Gujarat, 396195, which was availed fraudulently during the tax period from April-18 to Aug-23, under the provisions of Section 74(1) of the CGST Act, 2017 read with Section 74(1) of the SGST/UTGST/UTGST Act, 2017 and Section 20 of the IGST Act, 2017.

(ii) I further confirm the demand of interest on the amount mentioned at Sr. No. (i) above, in terms of Section 50 of the CGST Act, 2017 read with Section 50 of the SGST/UTGST/UTGST Act, 2017 and Section 20 of the IGST Act, 2017.

(iii) I also impose penalty equivalent to the tax amount of ₹ 12,38,96,621/- under Section 74(1) of the CGST Act, 2017 read with Section 74(1) of the SGST/UTGST Act read with Section 20 of the IGST Act, 2017 and order its recovery. However, as per the provisions of Section 74(11) of the CGST Act, 2017 and corresponding provisions of SGST/UTGST/UTGST Act, 2017 the taxpayer has the option to pay 50% of the aforesaid penalty amount if the tax amount confirmed at Sr.No. (i) above along with interest amount are paid with the reduced penalty amount within 30 days from the date of communication of this order.

46.2 M/s Jay Bharat Metcast Pvt. Ltd., (GSTIN-24AACCJ8923A1ZX)

(i) I confirm the demand of fraudulently availed Input Tax Credit amounting to ₹ 2,87,47,388/- and its recovery against M/s Jay Bharat Metcast Pvt. Ltd., (GSTIN-24AACCJ8923A1ZX), Vapi, Survey No 57/2, Village Morai, Vapi, TA Pardi, Valsad, Gujarat, 396195, availed fraudulently during the tax period from April-18 to Aug-23, under the provisions of Section 74(1) of the CGST Act, 2017 read with Section 74(1) of the SGST/UTGST Act, 2017 and Section 20 of the IGST Act, 2017.

(ii) I further confirm the demand of interest on the amount mentioned at Sr. No. (i) above, in terms of Section 50 of the CGST Act, 2017 read with Section 50 of the SGST/UTGST Act, 2017 and Section 20 of the IGST Act, 2017.

(iii) I also impose penalty equivalent to the tax amount of ₹ 2,87,47,388/- under Section 74(1) of the CGST Act, 2017 read with Section 74(1) of the SGST/UTGST Act read with Section 20 of the IGST Act, 2017 and order its recovery. However, as per the provisions of Section 74(11) of the CGST Act, 2017 and corresponding provisions of SGST/UTGST Act, 2017 the taxpayer has the option to pay 50% of the aforesaid penalty amount if the tax amount confirmed at Sr. No. (i) above along with interest amount are paid with the reduced penalty amount within 30 days from the date of communication of this order.

46.3 M/s Vandana Enterprises (GSTIN-24AGCPJ7828F1ZI)

(i) I confirm the demand of fraudulently availed Input Tax Credit amounting to ₹

3,78,000/- and its recovery against M/s M/s Vandana Enterprises (GSTIN-24AGCPJ7828F1ZI), Opp. Jalaram Guest House, Survey No 466 Palkee Plot No. 04, Manglam Colony, Silvassa Road Dungra, Vapi, Valsad, Gujarat, 396195, availed fraudulently during the tax period of F.Y. 2018-19, under the provisions of Section 74(1) of the CGST Act, 2017 read with Section 74(1) of the SGST/UTGST Act, 2017 and Section 20 of the IGST Act, 2017.

(ii) I further confirm the demand of interest on the amount mentioned at Sr. No. (i) above, in terms of Section 50 of the CGST Act, 2017 read with Section 50 of the SGST/UTGST Act, 2017 and Section 20 of the IGST Act, 2017.

(iii) I also impose penalty equivalent to the tax amount of **₹ 3,78,000/-** under Section 74(1) of the CGST Act, 2017 read with Section 74(1) of the SGST/UTGST Act read with Section 20 of the IGST Act, 2017 and order its recovery. However, as per the provisions of Section 74(11) of the CGST Act, 2017 and corresponding provisions of SGST/UTGST Act, 2017 the taxpayer has the option to pay 50% of the aforesaid penalty amount if the tax amount confirmed at Sr. No. (i) above along with interest amount are paid with the reduced penalty amount within 30 days from the date of communication of this order.

46.4 M/s Ganpati Traders, (GSTIN-26AHIPP8549A1Z6)

(i) I confirm the demand of fraudulently availed Input Tax Credit amounting to **₹ 4,49,434/- (Rs. 4,48,754/- IGST + Rs. 340/- CGST + Rs. 340/- SGST/UTGST)** and its recovery against M/s Ganpati Traders (GSTIN-26AHIPP8549A1Z6), 1st, A1 204, Yogi Hills, Silvassa Amli, Silvassa, Dadra and Nagar Haveli, Dadra and Nagar Haveli and Daman and Diu, 396230, availed fraudulently in contravention of provisions of Section 16 of CGST Act, 2017 for the period of F.Y. 2020-21 and also confirm the recovery of balance amount of ITC lying in their electronic credit ledger, under the provisions of Section 74(1) of the CGST Act, 2017 read with Section 74(1) of the SGST/UTGST Act, 2017 and Section 20 of the IGST Act, 2017 along with applicable interest under section 50 of the CGST Act, 2017.

(ii) I impose penalty equivalent to the tax amount of **₹ 4,49,434/-** under Section 74(1) of the CGST Act, 2017 read with Section 74(1) of the SGST/UTGST Act read with Section 20 of the IGST Act, 2017 and order its recovery. However, as per the provisions of Section 74(11) of the CGST Act, 2017 and corresponding provisions of SGST/UTGST Act, 2017 the taxpayer has the option to pay 50% of the aforesaid penalty amount if the tax amount confirmed at Sr. No. (i) are paid with the reduced penalty amount within 30 days from the date of communication of this order.

(iii) I also impose penalty for an amount of **₹ 1,67,00,109/-** under Section 122 (1) (ii) of the CGST Act, 2017 and corresponding Section 122 (1)(ii) of Gujarat SGST/UTGST Act, 2017, read with Section 20 of IGST Act, 2017, for passing on fraudulent ITC without actual supply of goods/services.

(iv) I also impose penalty for an amount of **₹ 1,78,42,064/-** under Section 122 (1)

(vii) of the CGST Act, 2017 and corresponding Section 122 (1)(vii) of Gujarat SGST/UTGST Act, 2017, read with Section 20 of IGST Act, 2017, for availing fraudulent ITC without actual receipt of goods/services.

46.5 M/s Krishna Industries (GSTIN-26ALEPP9431H1ZW),

(i) I impose penalty for an amount of ₹ 2,25,38,794/- under Section 122 (1)(ii) of the CGST Act, 2017 and corresponding Section 122 (1)(ii) of Gujarat SGST/UTGST Act, 2017, read with Section 20 of IGST Act, 2017, for passing on fraudulent ITC without actual supply of goods/services.

(ii) I also impose penalty for an amount of ₹ 2,24,36,222/- under Section 122 (1)(vii) of the CGST Act, 2017 and corresponding Section 122 (1)(vii) of Gujarat SGST/UTGST Act, 2017, read with Section 20 of IGST Act, 2017, for availing fraudulent ITC without actual receipt of goods/services.

46.6 M/s Raghav Industries (GSTIN-26BQWPS1030B1ZX)

(i) I confirm the demand of fraudulently availed Input Tax Credit amounting to ₹ 2,10,064/- (Rs. 0/- IGST + Rs. 772/- CGST + Rs. 2,09,292/- SGST/UTGST) against M/s Raghav Industries (GSTIN-26BQWPS1030B1ZX), Shop No. 10 Ground Floor, KP Vihar, opp. Essar Petrol Pump, Dadra, Dadra and Nagar Haveli-396193, availed fraudulently in contravention of provisions of Section 16 of CGST Act, 2017 for the period of F.Y. 2023-24 and lying balance in their electronic credit ledger, under the provisions of Section 74(1) of the CGST Act, 2017 read with Section 74(1) of the SGST/UTGST Act, 2017 and Section 20 of the IGST Act, 2017 along with applicable interest under section 50 of the CGST Act, 2017.

(ii) I impose penalty equivalent to the tax amount of ₹ 2,10,064/- under Section 74(1) of the CGST Act, 2017 read with Section 74(1) of the SGST/UTGST Act read with Section 20 of the IGST Act, 2017 and order its recovery. However, as per the provisions of Section 74(11) of the CGST Act, 2017 and corresponding provisions of SGST/UTGST Act, 2017 the taxpayer has the option to pay 50% of the aforesaid penalty amount if the tax amount confirmed at Sr. No. (i) are paid with the reduced penalty amount within 30 days from the date of communication of this order.

(iii) I also impose penalty for an amount of ₹ 11,78,49,291/- under Section 122 (1)(ii) of the CGST Act, 2017 and corresponding Section 122 (1)(ii) of Gujarat SGST/UTGST Act, 2017, read with Section 20 of IGST Act, 2017, for passing on fraudulent ITC without actual supply of goods/services.

(iv) I also impose penalty for an amount of ₹ 11,71,93,344/- under Section 122 (1)(vii) of the CGST Act, 2017 and corresponding Section 122 (1)(vii) of Gujarat SGST/UTGST Act, 2017, read with Section 20 of IGST Act, 2017, for availing fraudulent ITC without actual receipt of goods/services.

47. In view of foregoing paras, the instant Show Cause Notice No. DGGI/SZU/36-82/2025-26/Gr-07 Dated 20-06-2025 is disposed of in terms of order mentioned above.

48. This order is issued without prejudice to any other action that may be taken against the taxpayer under provisions of the Central Goods and Services Act, 2017 / GST Act, 2017 and the Rules framed there under and/or under any other law for the time being in force.

(Sandeep Kamboj)
Joint Commissioner,

F. No. ADJ/GST/789/2025-Adjn

DIN:

Date: .11.2025

OIO No.: SURAT/GST/SK/07/2025-26

To,

M/s. Gautam Exim Limited (GSTIN-24AACCG7701P1ZF) 2 nd Floor, Plot No. 29, Pavitra, Chharwada Road, GIDC, Vapi, Shri Ghatkopar Sweet & Farsan, Opp. Sargam Society, Vapi, Valsad, Gujarat, 396195
M/s. Jay Bharat Metcast Pvt. Ltd., (GSTIN: 24AACCJ8923A1ZX) Survey No 57/2, Village Morai, Vapi, TA Pardi, Valsad, Gujarat, 396195
M/s Ganpati Traders (GSTIN: 26AHIPP8549A1Z6) 1 st , A1 204, Yogi Hills, Silvassa Amli, Silvassa, Dadra and Nagar Haveli and Daman and Diu, 396230
M/s Krishna Industries (GSTIN: 26ALEPP9431H1ZW) Ground Floor, A/3-104, Bramand Complex, Amli Dayat Falia, Silvassa, Dadra and Nagar Haveli and Daman and Diu, 396230
M/s Raghav Industries (GSTIN: 26BQWPS1030B1ZX) Shop No. 10 Ground Floor, KP Vihar, opp. Essar Petrol Pump, Dadra, Dadra and Nagar Haveli 396193
M/s Vandana Enterprises (GSTIN-24AGCPJ7828F1ZI) Opp. Jalaram Guest House, Survey No 466 Palkee Plot No. 04, Manglam Colony, Silvassa Road Dungra, Vapi, Valsad, Gujarat, 396195

Copy to: -

1. The Additional/Joint Commissioner (Review), CGST & Central Excise, Surat Commissionerate, GST Bhavan, Opposite Gandhi Baug, Chowk Bazar, Surat.
2. The Jurisdictional Deputy/Assistant Commissioner, Division - IX (Vapi-I), CGST and Central Excise, Surat Commissionerate for information and necessary action.
3. The Deputy/Assistant Commissioner, Division -VI Silvassa, CGST and

Central Excise, Daman Commissionerate for information and necessary action.

4. The Deputy/Assistant Commissioner, Division -IX Silvassa, CGST and Central Excise, Daman Commissionerate for information and necessary action.
5. The Jurisdictional Deputy/Assistant Commissioner of UT Tax, State-Dadra and Nagar Haveli and Daman and Diu, Headquarter – Silvassa, Ward – Silvassa for information and necessary action.
6. The Superintendent, CGST and Central Excise, Division-IX (Vapi-I), Range-IV, Surat Commissionerate for information and necessary action.
7. The Superintendent, CGST and Central Excise, Division-IX (Vapi-I), Range-III, Surat Commissionerate for information and necessary action.
8. The Superintendent, CGST and Central Excise, Division-VI, Range-I, Silvassa, Daman Commissionerate for information and necessary action.
9. The Superintendent, CGST and Central Excise, Division-IX, Range-I, Silvassa, Daman Commissionerate for information and necessary action.
10. The Superintendent, CGST and Central Excise, Division-VI, Range-V, Silvassa, Daman Commissionerate for information and necessary action.
11. Guard file/Notice Board.