

GU Shipping India Pvt Ltd. v. The Assistant Commissioner of CGST and Central Excise

Case number: W.P.No.13829 of 2025 with W.M.P.No.15532 of 2025

Citation: 2026:MHC:1257

Decision date: 27 February 2026

Concessional GST rate for vessel transport and time charter despite wrongful ITC; interest and 100% ITC-linked penalty retained on remand

Court: Madras High Court

Bench: Hon'ble Mr. Justice C. Saravanan

Decision stage: Final writ disposal resolving the higher-rate issue, with remand to quantify wrongly availed and utilised ITC, interest and 100% penalty. No final ITC-quantum determination.

01 Facts of case and issues

GU Shipping challenged Order-in-Original No.15/2025-GST-ADC dated 8 January 2025, arising from a show-cause notice dated 25 July 2024 for FY 2017–18 to FY 2022–23. The reproduced adjudication order demanded differential IGST of Rs.22,65,05,082 on freight and Rs.6,05,40,252 on vessel renting, with interest and equivalent penalties, after treating the supplies as liable at 18% instead of 5%. These are the challenged differential-tax demands, not the amount of wrongly availed ITC finally determined by the Court.

The dispute concerned ITC on goods used in vessel transport and time-charter services and the credit conditions attached to the concessional entries. The taxpayer relied on subsequent reversal and earlier excise authorities. Revenue said the belated reversal did not cure its failure to satisfy the notification. The question was whether the consequence should be loss of the concessional rate or recovery of the wrong credit with the applicable interest and penalty.

Pinpoint: Paragraphs 1–7, physical pp. 2–10 (including the reproduced assessment images); paragraphs 8–14, physical pp. 11–13.

02 Discussion by Hon'ble Court

The Court's own analysis begins at paragraph 15. It treated the ITC as wrongly availed, read the relevant notification conditions and Explanation (iv), and noted the application of CGST provisions through Section 20 of the IGST Act. The notification's central-tax figures of 2.5% and 9% must be kept distinct from the 5% and 18% IGST figures in the challenged demand.

The Bench read Chandrapur Magnet Wires Pvt. Ltd. v. CCE, 1996 (81) ELT 3 (SC), as addressing reversal before removal of the final product, which it described as before utilisation. It declined to follow the broader approach it attributed to Hello Minerals Water (P) Ltd., 2004 (174) ELT 422 (All), and proceeded independently in the GST setting. Applying the fairness principle quoted from Unichem Laboratories v. CCE, (2002) 7 SCC 145, it held that Revenue should recover the wrong credit with interest and penalty rather than deprive the taxpayer of an otherwise available concession merely to increase revenue. Paragraphs 34–35 expressly reject denial of the concessional rate and the resulting disproportionate liability on these facts.

02 Discussion by Hon'ble Court

That conclusion did not erase the ITC default. Paragraphs 36–38 hold that post-order reversal alone was insufficient, discuss the reduced-penalty stages under Section 74(5), (8) and (11), and deny those concessions in this case. The Court required a penalty equal to 100% of the ITC wrongly availed and utilised. It left open whether the stated Rs.5,67,514 reversal/payment matched the actual wrong credit. The earlier departmental findings reproduced as images are the challenged reasoning, not independent holdings of the High Court.

Pinpoint: Paragraphs 15–27, physical pp. 14–20; paragraphs 29–38, physical pp. 21–24. Departmental excerpts: paragraph 7, physical pp. 5–10.

03 Judicial decision and operative relief

Read together, paragraphs 39–40 set aside the impugned order for redetermination and partly allow the writ by remitting the matter to the respondent. The remand is to determine the actual amount of ITC wrongly availed and utilised, interest under Section 50 and a penalty of 100% of that wrong credit. The connected miscellaneous petition was closed, with no costs.

The Court rejected the higher-rate consequence but did not declare all ITC eligible, waive interest or penalty, fix the final liability at Rs.5,67,514, order a refund, or prescribe a remand-completion deadline. The percentage is tied to the ITC to be determined, not automatically to the much larger differential-output-tax demands reproduced at the start of the order.

Pinpoint: Paragraphs 38–40, physical pp. 24–25.

04 In favour of

Mixed. The taxpayer succeeded against denial of the concessional rate and obtained setting aside/remand. Revenue retained recovery of the wrongly availed and utilised ITC, Section 50 interest and a 100% ITC-linked penalty, with quantum to be determined.

A substantive rate-concession ruling in the taxpayer's favour combined with adverse interest/penalty findings and a limited quantum remand. It is not an unconditional tax or ITC victory.

Pinpoint: Paragraphs 34–40, physical pp. 22–25.

05 AKHB REVIEW POINT

AKHB analysis: Separate the output-rate question from the input-credit consequence. Check the exact entry, tax period, goods/services distinction and permitted-credit exceptions before invoking this decision. A shipping business should reconcile invoices, electronic credit-ledger utilisation and reversal/payment records, and separately quantify interest and penalty. The decision does not confer general permission to retain credit contrary to a rate condition.

05 AKHB REVIEW POINT

Keep evidence of notice service, order communication and payments when testing a reduced-penalty provision. Do not treat belated credit reversal alone as closure of Section 74 proceedings. The Bench's fact-specific 100% penalty direction also should not be converted into a rule that every inadvertent ITC error establishes the statutory fraud, wilful-misstatement or suppression requirements. Resolve the source's conflicting payment dates from the underlying records and check subsequent orders before relying on the remand outcome.

Pinpoint: AKHB commentary based on paragraphs 24–27 and 31–40; these practical steps are distinct from the Court's holding.

Sources and limitations

Relevant provisions

Constitution of India: Article 226. CGST Act 2017: Sections 17(2), 50 and 74, including Sections 74(5), 74(8), 74(9) and 74(11); Section 122(2)(b) appears in the reproduced adjudication order. CGST Act Sections 9(1), 11(1), 15(5) and 16(1) are the stated enabling provisions of the rate notification. IGST Act 2017: Section 20. The reproduced adjudication order also invokes corresponding TNGST Act provisions. Notification No.11/2017–Central Tax (Rate), 28 June 2017: entries 9(ii), 10(ii) and Explanation (iv), read with Notification No.1/2018–Central Tax (Rate), 25 January 2018. Residual entries 9(v) and 10(iii) are described as numbered in the judgment; this is not a current consolidated tariff table.

Statutory note

Checked 13 October 2026. The original Notification No.11/2017–Central Tax (Rate), hosted by the official Mizoram Taxation Department, confirms the 2.5% central-tax entry for vessel goods transport, its goods-credit condition and Explanation (iv). The official GST Council copy of Notification No.1/2018–Central Tax (Rate) is dated 25 January 2018; paragraph (i)(c), physical p. 3, substitutes the time-charter entry at 2.5%, with its goods-credit condition, and the residual rental entry at 9%. These are targeted historical-instrument checks, not an audit of every intervening or current rate amendment.

CBIC's official statutory text and retained compilation as on 1 January 2022 confirm Section 74's 15%, 25% and 50% reduced-penalty stages, with tax and interest, and the respective timing conditions. Section 74(5) uses the time before service of notice; Section 74(8) specifies thirty days from issue of notice; Section 74(11) specifies thirty days from communication of the order. The Court denied those benefits on its facts. CBIC's IGST text confirms Section 20's application of identified CGST subjects, including input credit, demands/recovery, interest and penalty.

Fresh India Code CGST/IGST compilation requests timed out or failed. The legacy CBIC pages are not represented as fully updated 2026 consolidations. No independent current Tamil Nadu enactment, interest-rate notification or complete rules/amendment audit is claimed; the note reports the Court's Section 50 direction without inventing an interest rate or amount.

Treatment note

Checked 13 October 2026. Bounded public-web searches used the exact party, W.P.13829/2025 and neutral citation, with appeal, writ appeal, review, stay and Supreme Court terms, including Madras High Court and Supreme Court domains. No direct appellate reversal, stay, review modification or post-remand determination was verified. Secondary reports were discovery leads only.

A same-party listing lead mentions W.P.20462/2025, and another search result places the company in W.P.37085/2024 within a separate Section 168A batch. Neither was established as a direct appeal or later modification of this order. The retained official PDF's eCourts link failed on fresh access; a direct request returned HTML stating that the order was not uploaded for the case number. That response is an access limitation, not a verified absence of the judgment or later proceedings. No comprehensive registry, citator or compliance check is claimed.

Scope of source review

All 28 physical pages of the retained original were fully read and individually visually inspected. Pages 5–10 contain photographed assessment extracts; pp. 6–10 have no substantive searchable text, so their contents were read from the artwork. The pages after the operative order include the service address, an otherwise blank page and the pre-delivery cover. Notification review was targeted to the cited pages; full all-page review of those separate instruments or predecessor Supreme Court judgments is not claimed.

Source notes

Reserved 19 February 2026; pronounced 27 February 2026. The neutral citation 2026:MHC:1257 appears on physical p. 1, although p. 25 retains the template words “Neutral Citation : Yes / No”. Exact original bytes, including a leading UTF-8 BOM, are preserved; no cryptographic signature validation is claimed.

Source discrepancies are left visible. Paragraphs 12 and 36 give reversal/payment as 28 March 2025, whereas paragraph 38 twice uses 8 March 2025 and states Rs.5,67,514; this note does not choose between them. Paragraph 12 calls 25 July 2024 the impugned-order date, but paragraph 1 and the operative discussion identify that as the notice date and 8 January 2025 as the order date. Several paragraphs date Notification No.1/2018 as “25.04.2018” while saying it operates from 25 January 2018; the verified official instrument itself is dated 25 January 2018.

The statutory table continuing on p. 20 labels compliance-rating text as Section “148”; the official CGST text places that subject in Section 149, while Section 148 concerns special procedure. The notification's verified enabling clause lists Sections 9(1), 11(1), 15(5) and 16(1), rather than all the additional provisions placed in the judgment's table. These transcription/table discrepancies do not replace the decisive reasoning in paragraphs 31–40. The underlying full assessment, show-cause notice, payment proofs and remand order were not independently obtained.

Primary source

Source description: Complete retained official 28-page Madras High Court order. A fresh eCourts request returned an HTML unavailability message, so fresh byte identity was not established.

Official source: [Open source document](#)

Source pages: 28

Judgment author: C. Saravanan, J.

Outcome type: mixed final concessional rate ruling with itc quantum remand

Additional source

Official Notification No.11/2017–Central Tax (Rate), 28 June 2017

Official source: [Open source document](#)

Pinpoint: Physical pp. 1, 5–6 and 13–14: enabling clause, original vessel/rental entries, Explanation (iv) and commencement. Targeted text and image check on 13 October 2026.

Official Notification No.1/2018–Central Tax (Rate), 25 January 2018

Official source: [Open source document](#)

Pinpoint: Physical pp. 1, 3 and 7: date/enabling clause, paragraph (i)(c) and signature/note. Targeted text and image check on 13 October 2026.

CBIC official CGST Act text (legacy page)

Official source: [Open source document](#)

Pinpoint: Sections 74(1), (5), (8), (9), (11), 148 and 149; targeted check 13 October 2026. Not treated as a complete current consolidation.

CBIC official IGST Act text (legacy page)

Official source: [Open source document](#)

Pinpoint: Section 20, particularly clauses (iv), (xvi) and (xxv); targeted check 13 October 2026. Not treated as a complete current consolidation.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete retained official order and identified primary sources. No human legal review is claimed.

General disclaimer: For professional information only; not legal advice. Read the full judgment and applicable law, verify current appellate orders and obtain case-specific professional advice before acting.

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Source checked: 13 October 2026

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