

## **Manoja Kumar Nayak vs Commissioner,**

*Challenge to demand of tax, interest and penalty under Sections 74 & 50 of CGST Act, 2017 despite voluntary reversal of Input Tax Credit (ITC). Issue relating to invocation of Section 74 (fraud/suppression) vs Section 73, and levy of interest on reversed*

**Date of Order:** April 8, 2026  
**Source:** GST INDIA Biz (www.gstindia.biz)

### **CASE DESCRIPTION / SUMMARY**

#### **Relevant Facts:**

The petitioners availed ITC based on invoices issued by a supplier later alleged to be non-existent. Upon intimation by the department, they voluntarily reversed the entire ITC through GSTR-3B returns before issuance of show cause notice. Despite this, proceedings under Section 74 were initiated demanding tax, interest and penalty on the ground of fraudulent ITC. The petitioners challenged the adjudication orders on grounds of lack of fraud, prior reversal, and improper invocation of Section 74.

#### **Issues:**

1. Whether proceedings under Section 74 CGST Act can be invoked without evidence of fraud, wilful misstatement or suppression.
2. Whether interest under Section 50 is payable when ITC is reversed voluntarily and not utilised.
3. Whether reliance solely on third-party statements and alert notices without independent inquiry is valid.

#### **Held:**

- Invocation of Section 74 was invalid as there was no material establishing fraud, wilful misstatement or suppression by the petitioner.
- Mere allegation based on supplier's non-existence or third-party statement is insufficient without independent inquiry.

- Since ITC was voluntarily reversed prior to issuance of SCN and excess balance existed in the electronic credit ledger, liability of interest under Section 50 does not arise.
- Proceedings appeared to be initiated mechanically after limitation under Section 73 had lapsed.
- Orders-in-original and consequential demands were held unsustainable in law.

**Cases Referred:**

- *C.C., C.E. & S.T. v. Northern Operating Systems Pvt. Ltd.*, (2022)
- *Cosmic Dye Chemical v. Collector of Central Excise*, (1995)
- *Uniworth Textiles v. Commissioner of Central Excise*, (2013)
- *Escorts v. Commissioner of Central Excise*, (2015)
- *Commissioner of Customs v. Magus Metals*, (2017)
- *Union of India v. Bharti Airtel Ltd.*, (2021)
- *State of Karnataka v. Ecom Gill Coffee Trading Pvt. Ltd.*, (2023)
- *Lipi Boilers Ltd. v. Commissioner of Central Excise*, (2025)