

Sri Parameshwara Bricks v. State Tax Officer, Peddapalli Circle, Karimnagar Division & Ors.

Lapse of composition option on crossing the Rs. 1.5 crore turnover threshold, and whether differential tax must be computed on cum-tax value under Rule 35.

Date of Order: August 20, 2026
Case Law No: GIB-GSTAT-2026-115
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CASE DESCRIPTION / SUMMARY

Background

The appellant, a red clay brick manufacturer under composition (Section 10(1), TGST/CGST), was found in audit to have e-way bill turnover of Rs. 1,95,53,800 for FY 2020-21 against Rs. 1,44,86,100 declared in CMP-08. Demands under Section 73 at the regular 5% rate, with interest and 10% penalty, were confirmed for FY 2020-21 and 2021-22 and upheld by the First Appellate Authority. The issues were whether the threshold was crossed and composition benefit lost, and whether the appellate order was justified.

Final Verdict

The Tribunal held that, the crossing of the threshold being admitted, **under Section 10(3) the composition option lapses automatically, by force of statute, from the day aggregate turnover exceeds Rs. 1.5 crore**. From that day Rule 6(2) makes tax payable under Section 9(1), subject to credit for composition tax already paid. It saw no ground to disturb the figures, which had already excluded e-way bill typographical errors. On its own motion, however, it held that since a composition dealer cannot collect tax from recipients (Section 10(4)), **the invoice value must be treated as cum-tax and the differential tax worked out under the Rule 35 formula, even though the benefit was never claimed**, because, following Unichem Laboratories (SC), the department must collect neither more nor less than the tax legally due. The proper officer was directed to recompute tax only on post-lapse supplies within two weeks, and to recompute interest and penalty accordingly. The question of ITC after cessation was left open, and the order was modified to that limited extent.

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