

Lucknow Test House v. Additional Commissioner Grade-II, State Tax, Lucknow & Ors.

Whether ITC reported under CGST/SGST heads instead of IGST, without exceeding aggregate eligible credit, can be demanded as excess ITC under Section 73.

Date of Order: August 27, 2026
Case Law No: GIB-GSTAT-2026-117
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

For April 2020–March 2021, a mismatch between GSTR-3B and the returns led the department to treat Rs. 1,00,408 each of CGST and SGST (Rs. 2,00,816 in total) as excess ITC under Section 73, with no allegation of fraud or suppression. The First Appellate Authority upheld it, reasoning under Section 16(2)(c) that ITC is available only under the head in which tax was deposited. The question of law referred was the treatment of ITC misreported across heads without exceeding aggregate eligibility.

Final Verdict

Applying the Kerala High Court Division Bench in *Rejimon Padickapparambil Alex v. UOI* (W.A. 54/2024) and CBIC Circular No. 192/04/2023-GST, which treat the electronic credit ledger as a single pool or “wallet” of IGST, CGST and SGST, the Tribunal held that **the demand cannot be sustained merely because credit was reflected under an incorrect tax head**, since the department had not established actual loss of revenue or availment beyond aggregate entitlement and the eligibility of the credit was not disputed. With the principal demand unsustainable, interest and penalty could not survive independently. However, as neither lower authority had verified from the ledger and returns that matching IGST credit was available and unclaimed, the appeal was allowed with a direction that **the proper officer verify sufficient eligible IGST credit and drop the demand if the IGST credit stands unclaimed**, with consequential relief including restoration or adjustment of ITC.