GOODS AND SERVICES TAX APPELLATE TRIBUNAL
CHENNAI BENCH, CHENNAI

COURT NO.1

Appeal No. APL/2/CHE/2026

ASSISTANT COMMISSIONER OF GST & CENTRAL EXCISE,
VILLUPURAM DIVISION,
CHENNAI OUTER COMMISSIONERATE ... Appellant

Versus

ROCKMAN INDUSTRIES LIMITED, MANAGING DIRECTOR,
7/B, CHEYYAR SIPCOT INDUSTRIAL ESTATE,
CHELLAPERUMPULIMEDU,
TIRUVANNAMALAI DISTRICT -631701 ... Respondent

Authorised Representative for Appellant	**Authorised Representative for Respondent**
MR. H. K SURESH, SUPERINTENDENT, AUTHORISED REPRESENTATIVE OF THE CENTRAL GOVERNMENT	MR. RAGHAVAN RAMABADRAN, ADVOCATE OF M/S. LAKSHMIKUMARAN & SRIDHARAN ATTORNEYS

Hon'ble Praveen Kumar Jain, Member (Judicial)
Hon'ble Shaik Khader Rahman, Member (Technical)

MICELLANEOUS ORDER NO 1/2026

Date of Order: 07.09.2026

1. As per Office Order no. 3/GSTAT//PB 2026 dated 14-05-2026 issued from file no. GSTAT/Benches/PB/2026/157, this Appeal No. APL/2/CHN/2026 was placed before the Division Bench for deciding whether a Question of Law is involved within the meaning of Section 109(8) of the CGST Act, 2017, so as to determine whether the appeal is required to be heard by a Single Member or shall be heard together by one Judicial Member and one Technical Member(Division Bench). Vide Order dated 04.08.2026, the Respondent was permitted two weeks' time to file its

reply and written submission, with liberty to the Learned Authorised Representative for the Central Government to file a replication thereafter. The appeal was accordingly listed on 01.09.2026 for hearing on the Question of Law.

2. Heard the Learned Authorised Representative appearing for the Appellant/Department, and Mr. R. Raghavan, Learned Advocate appearing for the Respondent.

3. The Learned Authorised Representative for the Department, in the written submission dated 21.08.2026, (Doc S No 14 on portal), has stated that no question of law is involved in the subject matter and that the appeal is confined to the factual issue, whether the disputed Input Tax Credit of Rs.30,23,370/- was validly availed by the Respondent.

4. The Respondent, vide its written submission dt.18-08-2026 (Doc S No 12 on portal) (in Ground A), has contended that in terms of Section 109(8) of the CGST Act, 2017, an appeal is required to be heard by a Single Member only where both conditions specified therein are cumulatively satisfied, namely, (i) the amount in dispute does not exceed fifty lakh rupees, and (ii) the appeal does not involve any question of law. It is submitted that although the amount in dispute in the present appeal is less than fifty lakh rupees, the appeal nonetheless involves questions of law, and therefore the matter is required to be adjudicated by a Division Bench.

5. In support of this contention, the Respondent has placed reliance on the decision of the Hon'ble Karnataka High Court in M/s. Atria Convergence Technologies Ltd. v. Deputy Commissioner of Commercial Tax, 2025 (2) TMI 883, wherein it has

been held, drawing upon Salmond's Jurisprudence, that a question is ordinarily one of law where its answer is to be found by reference to the statute, and that this would also extend to situations involving the interpretation of statutory provisions bearing upon the outcome of the proceeding.

6. The Respondent has accordingly framed the following questions for consideration:

a. Whether the substantive benefit of Input Tax Credit can be denied due to a procedural lapse?

b. Whether Input Tax Credit can be denied solely on the ground that the inward supply details are not reflected in Form GSTR-2A for a period prior to 01.01.2022, i.e., before the introduction of Section 16(2)(aa) of the CGST Act?

c. In case of non-reflection of invoices in Form GSTR-2A of the recipient, whether proceedings can be directly initiated against the recipient for reversal of Input Tax Credit?

d. Whether the Input Tax Credit under dispute could have been validly availed only through the mechanism envisaged under Section 18(3) of the CGST Act, 2017?

ANALYSIS & FINDINGS

7. However, on a perusal of the Department's own parawise comments dated 24.08.2026 (Doc S No 15 on portal) filed in response to the Respondent's

submissions, it is seen that the Department (ref para A)has, in substance, joined issue on matters that squarely involve the interpretation and applicability of statutory provisions as reproduced below

"The Respondent has submitted that the present appeal involves questions of law concerning the interpretation of Sections 16 and 18 of the CGST Act and, therefore, the matter is required to be adjudicated by a Division Bench of the Hon'ble GST Appellate Tribunal, 24.08.2026 "In this regard, it is submitted that the question of constitution of the appropriate Bench is a matter falling within the jurisdiction of the Hon'ble Tribunal and does not have any bearing on the merits of the Department's appeal. The Respondent's submission under this ground does not rebut the substantive issue involved in the appeal, namely, whether ITC relating to invoices appearing in the GSTR-2A of RICPL could be directly availed by RIL without following the mechanism prescribed under Section 18(3) read with Rule 41. The Respondent itself admits that the disputed ITC was reflected in the GSTR-2A of RICPL and was availed in the GSTR-3B of RIL. The Respondent also admits that FORM GST ITC-02 had separately been filed for transfer of unutillsed ITC of RICPL. Therefore, ***the issue is essentially one of determining the statutory eligibility and manner of availment*****"**

8. These very contentions, advanced by the Department itself, demonstrate that the present appeal cannot be resolved by a bare appreciation of facts, but necessarily requires an examination of the scope and interplay of Section 16(2), Section 18(3) and Rule 41 of the CGST Rules, 2017, particularly in the context of a merger/amalgamation. The determination of whether credit reflected against one GSTIN can be directly availed by a transferee without following the mechanism prescribed under Section 18(3) read with Rule 41, and whether such a lapse is procedural or substantive, are, in the considered view of this Bench, questions that

fall within the meaning of "Question of Law" as explained in Atria Convergence Technologies Ltd. (supra).

9. In the CGST Act 2017, the “Question of Law” is not defined. Hence the deciding principles in the present case shall be as per the above mentioned case law. A ‘Question of Law’ encompasses any issue that requires the interpretation of legal principles, statute or precedent. These issues shall be decided together by one Judicial Member and one Technical Member (Division Bench). We are of the view that for deciding the Question of Law involved in the present appeal, there must first be a foundation for it in the memorandum of appeal.

10. It is also relevant to note that the Appellant, in its memorandum of appeal, has at Grounds (v) and (viii) taken the specific stand that Section 18(3) CGST Act 2017 read with Rule 41 of CGST Rules 2017 lays down a statutory framework that is mandatory and not merely directory, and that compliance therewith is a necessary condition for valid transfer and availment of credit in merger cases. The grounds of appeal by the Appellant (Department) before the Appellate Tribunal under consideration as well as submitted by the Respondent are same under consideration viz. the Section 18(3) CGST Act 2017 read with Rule 41of CGST Rules 2017. We are of the view that the Department having itself raised this issue of statutory interpretation as a ground of appeal, its subsequent prayer that no Question of Law is contradictory from memorandum of appeal.

11. In view of the foregoing, this Bench is of the considered opinion that the present appeal **does involve a question of law** within the meaning of Section 109(8) of the

CGST Act, 2017. Thus, the contention/submission of authorised representative of the Appellant that no Question of Law is involved in present appeal is not sustainable. A Question of Law is involved in this appeal. Hence, the appeal shall be heard together by one Judicial Member and one Technical Member (Division Bench).

12. List the Appeal No. APL/2/CHE/2026 for hearing on merits on 05-10-2026.

Digitally signed by SHAIK KHADER RAHMAN
Date: 2026.09.08 14:16:43

Digitally signed by PRAVEEN KUMAR JAIN
Date: 2026.09.08 14:11:17

Shaik Khader Rahman
Member (Technical)

Praveen Kumar Jain
Member (Judicial)

DATED 07.09.2026