GOVERNMENT OF TELANGANA
COMMERCIAL TAXES DEPARTMENT

Office of the
Chief Commissioner of State Tax
Telangana :: Hyderabad

CIRCULAR No.16/2026

CCT's Ref. No. Adjn/5/2026 **Date: 14-11-2026**

Sub: GST – Adjudication of show cause notices under Sections 73, 74 and 74A of the CGST/TGST Acts, 2017 – Passing of speaking and legally sustainable orders – Suggested order structure, statutory safeguards and specimen order – Advisory – Issued – Reg.

Ref: (1) Advisory Note for Quasi-Judicial Accountability, dated 08-12-2025.
(2) Circular No. 3/2026, dated 01-09-2026.
(3) Training on Good Order Writing for GST adjudicating officers, October 2026.

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Attention of all adjudicating officers is invited to the references cited. This circular sets out, for general and continuing guidance, the safeguards and the structure that make an adjudication order speaking, reasoned and able to withstand appeal and judicial review.

1. Background

(a) Adjudication of a show cause notice (SCN) is a quasi-judicial function. Whether a demand survives in appeal and in writ proceedings depends as much on how the order is made and written as on the merits of the demand.

(b) Experience shows that a large number of demands are set aside or remanded by the High Court and the appellate authorities not on merits but on **preliminary and procedural grounds**: violation of natural justice, non-speaking orders, replies not considered, defective service, and demands travelling beyond the SCN. Each such order returns as a remand, a fresh adjudication, an appeal or a writ, delaying revenue and burdening both the Department and the taxpayer.

(c) Limitation is a further and incurable risk. An order issued after the outer limit is without jurisdiction, and the proceedings are deemed concluded (Section 75(10)). The statutory time limits are:

Section	Show cause notice	Order
73 (FY up to 2023-24)	At least 3 months before the time limit for the order (Section 73(2))	Within 3 years from the due date of the annual return for the year, or from the date of erroneous refund (Section 73(10))
74 (FY up to 2023-24)	At least 6 months before the time limit for the order (Section 74(2))	Within 5 years from the due date of the annual return for the year, or from the date of erroneous refund (Section 74(10))
74A (FY 2024-25 onwards)	Within 42 months from the due date of the annual return for the year, or from the date of erroneous refund (Section 74A(2))	Within 12 months from the date of the SCN, extendable by up to 6 months under the proviso to Section 74A(7)

Officers should work out the outer date for every case, note it on the case file, and exclude only the periods permitted by Section 75(1) and 75(11).

2. Nature of this circular: advisory

This circular is **advisory**. It is issued to guide adjudicating officers and to promote consistency; it is not a mandatory instruction. Two kinds of requirements should be kept apart:

(a) **Requirements of the Act.** Limitation, jurisdiction, service under Section 169, hearing and adjournments under Section 75(4) and (5), reasons under Section 75(6), and the limits of the SCN under Section 75(7) bind every order by force of the statute itself. Para 3 only recalls them.

(b) **Suggestions of this circular.** The order structure in para 4, the drafting practices in para 5, the self-check in Annexure-I and the specimen order in Annexure-II are recommended good practice.

Departure from the suggested structure, headings or format shall not by itself render any order invalid or defective. Nothing in this circular directs any officer on what to decide in a case; findings on merits remain the officer's own.

3. Statutory safeguards: points to verify before signing

These flow from the Act. Officers are advised to verify each of them before signing and to record them in the order itself, since appellate authorities look for them on its face:

(a) **Jurisdiction.** The officer is the proper officer for the taxpayer, both territorially and by subject-matter, under the order assigning functions; that order should be cited. Confirm on the portal that no proceedings on the same subject matter have been initiated under the CGST/TGST Act (Section 6(2)(b)).

(b) **Time limits.** The SCN was issued within the time allowed, and the order will be issued within the outer limit shown in para 1(c).

(c) **Proof of service (Section 169).** Record the mode and date of service of the SCN and of every hearing notice, with proof on file. Where the taxpayer does not respond, also use the registered e-mail and mobile number, and record each attempt.

(d) **Opportunity of hearing (Section 75(4) and (5)).** A hearing is required where an adverse decision is contemplated; offer one wherever any demand is proposed to be confirmed, after the due date for the reply. Grant an adjournment only on sufficient cause, with reasons in writing, and **not more than three times**. Record reasons for any refusal as well. Maintain a hearing diary.

(e) **Ex parte orders.** Pass one only after items (c) and (d) are recorded. Even then, the order must examine the evidence and give reasons. "Confirmed as proposed in the SCN" is not an order.

(f) **Remain within the SCN (Section 75(7)).** No new ground, tax head, period or amount beyond the SCN. The demand may be reduced but never enhanced. A fresh discrepancy noticed during adjudication must be taken up in separate proceedings.

(g) **Consider everything on record.** Before drafting, check the common portal for every reply, document and payment, including late filings. Do not rely on any material not disclosed to the taxpayer.

(h) **Issue of the order.** Sign and upload the order with the summary in Form GST DRC-07 on the common portal on or before the last date. Do not sign offline for later upload, and do not back-date.

4. Suggested structure of an adjudication order

Officers are advised to adopt the following structure. It is especially recommended for high-value and contested matters; in smaller or uncontested cases it may be adapted, provided the substance of each part is covered.

#	Heading	Particulars
1	Prefatory information	Section and FY; order number and date; officer's name and designation; taxpayer, GSTIN and representative; SCN number and date; reply date; dates of all hearings and adjournments
2	Introductory statement	The main question and the answer, in two or three sentences
3	Procedural history	Source of power; provisions alleged to be contravened; how the proceedings began (scrutiny, audit or inspection); SCN date and service; a summary, not reproduction, of SCN allegations and replies; hearing record
4	Issues	Preliminary issues first (limitation, validity and service of SCN, jurisdiction); merits next; fraud or suppression as a separate issue; tax, interest and penalty last
5	Findings of fact	Uncontested facts in date order; findings on disputed facts with the evidence relied on; evidence rejected, and why
6	Analysis	Issue by issue: the taxpayer's contention, the officer's reasons for accepting or rejecting it, and the law applied to the facts
7	Decision	Outcome on each issue, numbered as in Part 4
8	Tax, interest and penalty	Table by period and head (CGST, SGST, IGST, Cess); DRC-03 payments adjusted; interest under Section 50 with dates; penalty under the correct sub-section
9	Directions for compliance	Amount payable, time and mode of payment, consequences of non-payment
10	Appeal	Remedy under Section 107, pre-deposit under Section 107(6), limitation period

A **specimen order under Section 74A**, prepared during the training at reference (3) and illustrating this structure, is enclosed as **Annexure-II**. Its taxpayer, officers, figures and facts are fictitious. It shows how each part may be written; it is not a template to be copied, and each order must be written on the facts and record of its own case.

5. Good drafting practices

(a) Write findings in the officer's own words. Summarise the SCN and the reply; do not reproduce them at length. Any text needed in full may go to an annexure.

(b) Answer **every** defence raised, point by point, including the judgments cited by the taxpayer, which should be followed or distinguished with reasons. No argument should be passed over in silence.

(c) Apply only the law, rates, notifications and circulars in force for the relevant period.

(d) Ensure that the figures in the analysis, the computation table, the operative portion and Form GST DRC-07 match exactly.

6. Planning, support and review

(a) **Plan, do not rush.** Take up cases in order of their limitation dates, and first those in which replies are on file. Fix a realistic number of hearings per day, and draft each order soon after its hearing.

(b) **Self-check.** Officers may use the checklist at Annexure-I before signing. It is a working aid and is not to be attached to the order.

(c) **Peer review for learning.** Joint Commissioners may review a sample of orders issued in their divisions, giving priority to high-value and contested matters, to share good practice and identify training needs. The review does not touch the merits and is not a compliance audit.

(d) **Monitoring.** The Adjudication Module on the dashboard shows the status of DRC-01 notices. Joint Commissioners shall review it regularly and ensure that orders are passed in a staggered manner through the year, avoiding bunching towards limitation dates.

(e) Joint Commissioners are requested to circulate this circular to every adjudicating officer and to discuss it in divisional review meetings.

Sd/-M.Raghunandan Rao
Chief Commissioner of State Tax

Encl: (1) Annexure-I: Suggested self-check before signing. (2) Annexure-II: Specimen order under Section 74A.

To

All Joint Commissioners (ST), Deputy Commissioners (ST), Assistant Commissioners (ST) and State Tax Officers.

Copy to

All Commissioners and Additional Commissioners (ST) in the O/o the CCST.

ANNEXURE-I

Suggested self-check before signing

(working aid; not part of the order)

GSTIN: _____ *SCN No. and date:* _____ *FY:* _____ Section: 73 / 74 / 74A

A. Threshold

☐ I am the proper officer for this taxpayer; the assignment order is cited in the order.

☐ No proceedings on the same subject matter are pending under the CGST/TGST Act (Section 6(2)(b)).

☐ The SCN was issued within time, and this order is within the outer limit.

☐ Service of the SCN and of every hearing notice under Section 169 is proved on file and recorded.

☐ A personal hearing was offered; adjournments (not more than three) and refusals are reasoned in writing.

☐ The portal was checked for all replies, documents and DRC-03 payments before drafting.

B. Structure and reasoning

☐ The order covers the contents suggested in para 4 (headings may be adapted).

☐ Preliminary issues are decided before merits; fraud or suppression, if alleged, is decided as a separate issue on evidence.

☐ Every defence, and every judgment cited by the taxpayer, is answered with reasons.

☐ Findings rest only on material disclosed to the taxpayer.

☐ The SCN and the reply are summarised, not reproduced at length.

C. Demand

☐ No ground, head, period or amount exceeds the SCN (Section 75(7)).

☐ Interest under Section 50 and penalty under the correct sub-section are computed and shown period-wise.

☐ Figures match across the analysis, computation table, operative portion and DRC-07.

☐ Directions for payment and the appeal remedy under Section 107 are stated.

☐ The order and DRC-07 are uploaded on or before the last date of limitation.

SPECIMEN ORDER UNDER SECTION 74-A

> This is a specimen, not a real order. The taxpayer, officers, GSTIN, reference numbers, dates and figures are invented. It must not be used, filed or presented as an order of any authority.

OFFICE OF THE ASSISTANT COMMISSIONER (STATE TAX), SPECIMEN CIRCLE, HYDERABAD

Commercial Taxes Department, Government of Telangana (specimen)

ORDER UNDER SECTION 74-A(6) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND THE TELANGANA GOODS AND SERVICES TAX ACT, 2017
in the matter of ABC Agro Traders Private Limited for the financial year 2024-25

1. Prefatory information
2. Introductory statement
3. Procedural history
4. Issues
5. Findings of fact
6. Analysis
7. Decision
8. Taxes, interest and penalty
9. Directions for compliance
10. Appeal and review

Annexure A: Chronology of proceedings
Annexure B: Compliance with Section 75
Annexure C: Computation of interest
Annexure D: Documents considered

1. Prefatory information

Item	Details
Order	Order under Section 74-A(6), FY 2024-25
Case ID / order number	ARN Number
Date of order	28.09.2026
Department	Commercial Taxes Department, Government of Telangana, Specimen Circle, Hyderabad
Decided by (and author)	A.B. Rao, Assistant Commissioner (State Tax), Specimen Circle, Hyderabad (fictional)
Taxpayer	ABC Agro Traders Private Limited (a private limited company)
GSTIN	36AAACA0000A1Z0 (specimen)
Authorised representative	C.D. Sharma, Chartered Accountant (fictional), under letter of authority dated 14.08.2026
Show cause notice	Form GST DRC-01, No. SPC/SCN/2026-27/0042, dated 15.05.2026
Hearings and adjournments	Hearing fixed for 20.08.2026; adjourned on the Taxpayer's request (granted 19.08.2026); hearing held 03.09.2026
Reply filed by the Taxpayer	Reply dated 10.06.2026

Item	Details
Record of proceedings	Common portal, Case ID SPC-2026-0042; file SPC/AUD/2025-26/118

2. Introductory statement

1. **Question.** Did ABC Agro Traders Private Limited (**the Taxpayer**) wrongly take input tax credit (**ITC**) in FY 2024-25 by (A) taking ITC not shown in its GSTR-2B, (B) taking ITC blocked by Section 17(5), and (C) not reversing common ITC used for exempt supplies; and, if so, did it do so by fraud, wilful misstatement or suppression? The show cause notice proposed tax of ₹6,40,000 and a penalty of ₹4,78,000.

2. **Answer.** In part. ITC of ₹3,50,000 was wrongly taken and ₹2,90,000 was correctly taken. There was no fraud, wilful misstatement or suppression. After crediting ₹36,000 already paid, the Taxpayer must pay tax of **₹3,14,000**, interest of **₹89,886** to 28.09.2026, and a penalty of **₹35,000**: in all, **₹4,38,886**.

3. Procedural history

3.1 Basis of this authority's power

3. I am the proper officer for the Taxpayer for proceedings under Section 74-A, assigned by the Commissioner of State Tax by order No. CST/PO/2025/12 dated 01.04.2025.

4. The Taxpayer is registered within the territorial jurisdiction of Specimen Circle.

3.2 Provisions alleged to have been contravened

(a) Section 16(2)(aa) and 16(2)(c) (head A).

(b) Section 17(5)(ab) and 17(5)(b)(i) (head B).

(c) Section 17(2), read with rule 42 of the CGST Rules, 2017 (head C).

3.3 How the proceedings began

5. As set out in Annexure A, the Joint Commissioner (State Tax), Specimen Division, authorised an audit of the Taxpayer for FY 2024-25 under Section 65. Notice of audit (Form GST ADT-01) was issued. The audit report (Form GST ADT-02) found the three discrepancies in heads A to C and was communicated to the Taxpayer. The Taxpayer replied to it, disputing all three.

6. Before issuing the SCN, I confirmed in the portal that no proceedings on the same subject matter had been initiated under the CGST/TGST Act (Section 6(2)(b)).

7. The tax involved exceeds ₹1,000, the threshold in the proviso to Section 74-A(1).

3.4 The show cause notice

8. As set out in Annexure A, the show cause notice (the SCN) was issued within forty-two months of the due date of the annual return. It was served by making it available on the common portal and by email to the Taxpayer's registered address (Section 169(1)(c) and (d)). It identified the Taxpayer, its address, registration, status and business, and named me as the adjudicating authority. On the portal, the Taxpayer has access to the relied-upon documents: the audit report, an invoice-wise statement of the ITC in dispute, and the portal record of Q Traders' returns and registration.

9. The SCN alleged:

	Allegation and provision	Tax period	CGST (₹)	SGST (₹)	Total (₹)
A	ITC in GSTR-3B exceeding GSTR-2B (Section 16(2)(aa), (c))	Oct 2024 – Mar 2025	2,30,000	2,30,000	4,60,000
B	ITC blocked: car repair and insurance; staff meals (Section 17(5))	FY 2024-25	45,000	45,000	90,000
C	Common ITC not reversed for exempt supplies (Section 17(2); rule 42)	FY 2024-25	45,000	45,000	90,000
	Total		**3,20,000**	**3,20,000**	**6,40,000**

10. IGST and cess were not involved. The SCN proposed interest under Section 50, a penalty equal to the tax on head A under Section 74-A(5)(ii) for alleged suppression (₹4,60,000), and a penalty of 10% under Section 74-A(5)(i) on heads B and C (₹18,000). No amount had been paid before the SCN. The SCN gave the Taxpayer thirty days to reply and stated its right to be heard.

3.5 Reply and payment

11. The Taxpayer replied in Form GST DRC-06 within the thirty days allowed. In summary, it argued that: (a) the ITC on P Foods' invoices was later shown in GSTR-2B; (b) it should not lose ITC on Q Traders' invoices for the supplier's default, relying on *Suncraft Energy (P.) Ltd v Assistant Commissioner, State Tax*, and enclosing a letter from Q Traders dated 02.06.2026 stating that tax had been paid; (c) the staff meals were obligatory under the Factories Act, 1948; (d) rule 42 does not apply to traders; and (e) it had concealed nothing. It accepted that ITC of ₹36,000 on its car was blocked, and on 25.06.2026 paid that tax with interest of ₹7,652 through Form GST DRC-03.

3.6 Hearing

12. A hearing was required: the Taxpayer asked for one in its reply, and this order is in part adverse to it (Section 75(4)). The hearing was fixed after the time for reply had expired.

Date	Event	Notice / request (mode)	Reasons recorded
05.08.2026	Hearing fixed for 20.08.2026, 11:00 a.m., in person at this office	Portal and email (Section 169(1)(c), (d))	—
18.08.2026	Adjournment 1 requested	Email from authorised representative	He was to appear before the Appellate Authority on 20.08.2026 in another matter. Sufficient cause; granted on 19.08.2026
19.08.2026	Hearing refixed for 03.09.2026, 11:00 a.m.	Portal and email (Section 169(1)(c), (d))	—

13. Hearing on 03.09.2026, 11:00 a.m., in person. C.D. Sharma, Chartered Accountant, appeared as authorised representative and produced the letter of authority dated 14.08.2026. He repeated the written reply and added that the ITC ledger would show that P Foods' ITC was not used early. I informed him that recovery proceedings had been initiated against Q Traders and that its tax for October–December 2024 remained unpaid. At my request he filed ITC ledger extracts on 10.09.2026; no further rejoinder was filed. The hearing diary records these points and is signed by him.

3.7 Statements under Section 74-A(3)

14. No statement under Section 74-A(3) for any other period has been issued.

3.8 Periods excluded from time limits

15. No court or tribunal has stayed these proceedings (Section 75(1)), and no period falls to be excluded under Section 75(11).

4. Issues

16. The issues, all within the grounds stated in the SCN (Section 75(7)), are:

    (a) **Issue 1 (preliminary):** Was the SCN validly issued and served, and is this order within jurisdiction and time?

    (b) **Issue 2 (head A):** Was ITC of ₹4,60,000 not shown in GSTR-2B inadmissible under Section 16(2)?

    (c) **Issue 3 (head B):** Was ITC of ₹90,000 on car repair and insurance and staff meals blocked by Section 17(5)?

    (d) **Issue 4 (head C):** Was the Taxpayer required to reverse common ITC of ₹90,000 under Section 17(2) and rule 42?

    (e) **Issue 5 (suppression):** Was any ITC wrongly taken by reason of fraud, wilful misstatement or suppression of facts to evade tax?

    (f) **Issue 6 (interest and penalty):** What interest and penalty are payable, and what is the effect of the DRC-03 payment of 25.06.2026?

5. Findings of fact

17. Further to the requirements of Section 75(6) of the Act, this Part sets out the relevant facts and Part 6 the basis of each decision. Every document relied on was supplied to, or filed by, the Taxpayer (Annexure D).

5.1 Uncontested facts

Date	Fact
FY 2024-25	The Taxpayer trades from one leased warehouse in Hyderabad, where it employs 58 people, in pre-packaged rice and pulses (taxable at 5% (HSN Code XXXX)) and loose grain and fresh vegetables (exempt). Taxable turnover ₹42,60,00,000; exempt turnover ₹7,10,00,000; total ₹49,70,00,000
01.10.2024	Q Traders' registration cancelled with effect from this date, for not filing returns
Oct–Dec 2024	Q Traders issues invoices to the Taxpayer carrying ITC of ₹1,70,000; the Taxpayer pays by bank transfer
Feb–Mar 2025	P Foods issues invoices to the Taxpayer carrying ITC of ₹2,90,000
20.04.2025	The Taxpayer's GSTR-3B for March 2025 takes ITC on P Foods' invoices
14.05.2025	P Foods' invoices appear in the Taxpayer's GSTR-2B for April 2025, after P Foods files its GSTR-1 for April 2025
18.12.2025	The Taxpayer files its annual return; Table 8 shows the ₹4,60,000 gap between ITC in GSTR-3B and in GSTR-2B

5.2 Disputed facts and findings on disputed facts

18. The disputed facts relate to eligibility of ITC availed by the Taxpayer, reconciliation of the GSTR-2B returns of the Taxpayer with its supplier and non-reversal of ineligible ITC. The findings on disputed facts are as under:

19. **P Foods' ITC was taken once, and was not used before 14.05.2025.** The Taxpayer's GSTR-3B returns for April and May 2025 do not take this ITC again. Its ITC ledger shows CGST and SGST balances above ₹6,00,000 each from 20.04.2025 to 14.05.2025.

20. **Q Traders did not pay the tax.** Q Traders filed no GSTR-1 or GSTR-3B after September 2024, so its invoices never appeared in the Taxpayer's GSTR-2B. I accept that the goods were received: the Taxpayer holds the invoices, e-way bills and bank records.

21. **Evidence found unreliable.** Q Traders' letter of 02.06.2026 is unsigned, gives no payment details, and is contradicted by the portal record that no return was filed and no tax paid for October–December 2024. I give it no weight.

22. **The disallowed ITC was used.** From December 2024, the ITC ledger's month-end balance fell below the cumulative ITC disallowed in this order. Q Traders' ITC was used from 21.01.2025 and the staff-meals ITC from 21.04.2025.

23. **Staff meals and premises.** The Taxpayer provides staff lunches through an outside caterer (ITC ₹54,000). Rent, security and maintenance of the single warehouse (ITC ₹6,30,000) serve both taxable and exempt goods. None of that ITC was reversed.

24. The SCN treated all ₹4,60,000 under head A as inadmissible by comparing GSTR-3B and GSTR-2B for FY 2024-25 alone. It did not examine GSTR-2B for April 2025, which shows P Foods' invoices. The documents do not support head A to that extent.

6. Analysis

Issue 1: Validity and service of the SCN, jurisdiction and time

25. I am the proper officer (Part 3.1). The SCN was issued within forty-two months and served under Section 169 (Part 3.4 read with Annexure A). No parallel proceedings exist (Part 3.3). This order is issued within twelve months of the SCN without any extension under the proviso to Section 74-A(7). The Taxpayer has not challenged any of these matters.

26. **Finding.** The SCN is valid and was duly served; this order is within jurisdiction and time.

Issue 2: ITC not shown in GSTR-2B (head A)

27. ITC is admissible only if the supplier has reported the invoice in GSTR-1, the details have been communicated to the recipient, and the tax has been paid; and, for this year, only if taken by 30.11.2025.

28. **P Foods (₹2,90,000).** The Taxpayer argues that the ITC became admissible when P Foods reported the invoices. I accept this. All the conditions in Section 16(2) were met on 14.05.2025, within the time in Section 16(4), and the ITC was not taken twice. Because the ITC was not used before it became admissible (Part 5.2), no interest arises under Section 50(3).

29. **Q Traders (₹1,70,000).** Conditions of Section 16(2)(aa) and (c) are not met: Q Traders never reported the invoices or paid the tax. The Taxpayer relies on *Suncraft Energy*, in which the Calcutta High Court held that ITC should not be reversed against a recipient holding valid invoices and proof of payment unless the department had first proceeded against the defaulting supplier; the Supreme Court in *Assistant Commissioner of State Tax v Suncraft Energy (P.) Ltd* dismissed the department's special leave petition, noting the small amount involved. I do not follow it here, for three reasons. First, its ratio rests on the department having taken no action against the supplier; here, Q Traders' registration was cancelled for non-filing and recovery proceedings have been initiated. Second, the dismissal of a special leave petition, on the stated ground of the small amount, does not declare the law. Third, Section 16(2)(aa) has applied since 01.01.2022 and applies to FY 2024-25, so ITC depends on the invoice being reported by the supplier. The Taxpayer's remedy is against its supplier.

30. **Finding.** ITC of ₹1,70,000 (CGST ₹85,000; SGST ₹85,000) was wrongly taken. Head A is dropped as to ₹2,90,000.

Issue 3: ITC blocked by Section 17(5) (head B)

31. **Admission.** The Taxpayer admits that ITC of ₹36,000 on its directors' car is blocked by Section 17(5)(ab) and has paid this amount. That part of the issue needs no further decision.

32. **Staff meals (₹54,000).** The Taxpayer argues that the meals are obligatory under the Factories Act, 1948, so the proviso to Section 17(5)(b) applies. I do not accept this. Section 46 of that Act allows a canteen to be required only in a factory ordinarily employing more than 250 workers. The Taxpayer has not shown that its warehouse is a factory, it employs 58 people, and it cites no other law requiring it to provide meals. The proviso does not apply, and Section 17(5)(b)(i) blocks the ITC.

33. **Finding.** ITC of ₹90,000 (CGST ₹45,000; SGST ₹45,000) is blocked by Section 17(5); ₹36,000 of it has been paid.

Issue 4: Common ITC for exempt supplies (head C)

34. The Taxpayer argues that Rule 42 applies only to manufacturers, not to a trader that resells goods unprocessed. I do not accept this. Section 17(2) applies wherever goods or services are used "partly for effecting taxable supplies … and partly for effecting exempt supplies". The test is how the inputs are used, not the kind of business. The Taxpayer sells both kinds of goods from one warehouse, so its rent, security and maintenance serve both.

35. Exempt turnover was 14.29% of total turnover (₹7,10,00,000 of ₹49,70,00,000). The ITC to be reversed is 14.29% of ₹6,30,000, which is ₹90,000.

36. **Finding.** Common ITC of ₹90,000 (CGST ₹45,000; SGST ₹45,000) should have been reversed.

Issue 5: Fraud, wilful misstatement or suppression

37. Under Section 74-A, this issue affects only the penalty. Suppression means not declaring information that must be declared in a return, or not furnishing information when asked in writing. Fraud and wilful misstatement require a deliberately false statement. Each must be "to evade tax", so the department must show a guilty mind (*mens rea*), not merely a wrong claim.

38. The SCN alleged suppression on head A only, on the ground that the Taxpayer kept taking ITC from Q Traders after that supplier stopped filing. The record does not support it. The Taxpayer declared the ITC in GSTR-3B; reported the whole gap with GSTR-2B in Table 8 of its annual return; held invoices and paid the supplier by bank transfer; and produced every record the audit asked for. The department found the issue in the Taxpayer's own returns. No false statement is shown, and no fact on record suggests an intention to evade tax: the ITC was taken on a mistaken view of entitlement. Heads B and C turn on disputed views of the law, equally visible in the books.

39. **Finding.** No ITC was wrongly taken by reason of fraud, wilful misstatement or suppression. Section 74-A(5)(i), not 74-A(5)(ii), applies to every head. It is therefore unnecessary to consider Section 74-A(9).

Issue 6: Interest, penalty and the DRC-03 payment

40. **Interest.** Interest is payable whether or not specified in the order (Section 75(9)); it is specified here. It runs under Section 50(3) on Q Traders' ITC from 21.01.2025 and on the staff-meals ITC from 21.04.2025, the dates on which the ITC was used (Part 5.2), and under Section 50(1) read with rule 42(2) on the common ITC from 01.04.2025. To 28.09.2026 it is ₹89,886 (Annexure C). It continues to run until payment.

41. **The DRC-03 payment.** The Taxpayer argues that its payment of 25.06.2026 should end the proceedings on head B. Section 74-A(8)(ii) waives the penalty and concludes the proceedings only where "the said tax" — all the tax in the SCN — is paid with interest within sixty days. The Taxpayer paid ₹36,000 of ₹6,40,000. I credit the payment against the tax due, but it does not attract Section 74-A(8)(ii).

42. **Penalty.** The penalty under Section 74-A(5)(i) is 10% of the tax due or ₹10,000, whichever is higher. The breach is wrongful availment of ITC contrary to Sections 16(2), 17(5) and 17(2). Ten per cent of ₹3,50,000 is ₹35,000. This is the minimum the provision allows and is not excessive. Section 126 does not govern the amount, because the penalty is a fixed percentage; the Taxpayer was heard before it was imposed. No penalty is imposed under any other provision for the same acts (Section 75(13)).

7. Decision

Issue	Decision
1. Preliminary	The SCN is valid and duly served; the order is within jurisdiction and time.
2. Head A	ITC of ₹1,70,000 was wrongly taken; ₹2,90,000 is dropped.
3. Head B	ITC of ₹90,000 is blocked; ₹36,000 of it has been paid.
4. Head C	Common ITC of ₹90,000 should have been reversed.
5. Suppression	No fraud, wilful misstatement or suppression; Section 74-A(5)(i) applies.
6. Interest and penalty	Interest of ₹89,886 to 28.09.2026, continuing; penalty of ₹35,000; the DRC-03 payment is credited.

43. No demand is confirmed on a ground not stated in the SCN, and no amount exceeds the amount proposed (Section 75(7)):

	SCN (₹)	Determined (₹)	Dropped (₹)
Head A	4,60,000	1,70,000	2,90,000
Head B	90,000	90,000	—
Head C	90,000	90,000	—

	SCN (₹)	Determined (₹)	Dropped (₹)
Total tax	6,40,000	3,50,000	2,90,000
Penalty	4,78,000	35,000	4,43,000
Interest	Under Section 50, not quantified	89,886 to 28.09.2026	—

44. This order is issued on 28.09.2026, within twelve months of the SCN dated 15.05.2026 (Section 74-A(7)). It is an original order; Section 75(3) does not apply.

8. Taxes, interest and penalty

8.1 Tax, by head

Head	Tax period	Basis	CGST (₹)	SGST (₹)	IGST (₹)	Cess (₹)	Total (₹)
A. Q Traders	Oct–Dec 2024	ITC on invoices not reported by supplier	85,000	85,000	—	—	1,70,000
B. Car	Apr 2024 – Mar 2025	ITC on repair and insurance	18,000	18,000	—	—	36,000
B. Staff meals	Apr 2024 – Mar 2025	ITC on catering	27,000	27,000	—	—	54,000
C. Common ITC	FY 2024-25	14.29% × ₹6,30,000	45,000	45,000	—	—	90,000
Total			**1,75,000**	**1,75,000**	**—**	**—**	**3,50,000**

8.2 Amount payable

Item	CGST (₹)	SGST (₹)	IGST (₹)	Cess (₹)	Total (₹)
Tax determined (8.1)	1,75,000	1,75,000	—	—	3,50,000
Less: DRC-03 payment, 25.06.2026	(18,000)	(18,000)	—	—	(36,000)
Balance tax	1,57,000	1,57,000	—	—	3,14,000
Interest to 28.09.2026 (Annexure C)	44,943	44,943	—	—	89,886
Penalty, Section 74-A(5)(i)	17,500	17,500	—	—	35,000
Total payable	**2,19,443**	**2,19,443**	**—**	**—**	**4,38,886**

45. The summary of this order in Form GST DRC-07 records the same figures.

9. Directions for compliance

46. In view of the above, ABC Agro Traders Private Limited shall pay ₹4,38,886, with further interest under Section 50 from 29.09.2026 until payment, within three months of service of this order (Section 78).

47. The Taxpayer shall pay through Form GST DRC-03 on the common portal against the demand in Form GST DRC-07. Interest and penalty must be paid from the electronic cash ledger. The payment acknowledgement should be sent to this office or to specimen-circle@example.com.

48. **If not paid.** Recovery proceedings under Section 79 will begin without further notice.

49. **Service and upload.** This order is served on 28.09.2026 on the common portal and by email (Section 169(1)(c), (d)), and its summary is uploaded in Form GST DRC-07 so that it appears in the Taxpayer's demand tab. The DRC-03 payment of 25.06.2026 is credited against the demand.

10. Appeal and review

50. The Taxpayer may appeal to the Appellate Joint Commissioner (State Tax), Hyderabad, under Section 107, in Form GST APL-01 on the common portal, within three months of communication of this order; a further month may be allowed for sufficient cause. Before appealing it must pay any amount it admits and 10% of the tax it disputes, after which recovery of the balance is stayed. If the tax is changed on appeal, the interest and penalty change with it (Section 75(8)).

Sd/-
A.B. Rao
Assistant Commissioner (State Tax), Specimen Circle, Hyderabad
28.09.2026

To: ABC Agro Traders Private Limited, GSTIN 36AAACA0000A1Z0.
Copy to: C.D. Sharma, Chartered Accountant; Proper Officer having jurisdiction over Q Traders.

Annexure A: Chronology of proceedings

Date	Event
15.12.2025	Audit authorised under Section 65
18.12.2025	Annual return for FY 2024-25 filed (due 31.12.2025)
02.01.2026	Notice of audit (Form GST ADT-01)
20.01.2026 – 31.03.2026	Audit
10.04.2026	Audit report (Form GST ADT-02) communicated
25.04.2026	Taxpayer's reply to audit report
06.05.2026	Portal check: no proceedings on the same subject matter initiated under the CGST/TGST Act
15.05.2026	SCN issued and served (portal and email)
10.06.2026	Reply (Form GST DRC-06)
14.06.2026	Last date for reply
25.06.2026	₹36,000 tax and ₹7,652 interest paid (Form GST DRC-03)
05.08.2026	Hearing notice for 20.08.2026
18.08.2026 / 19.08.2026	Adjournment requested / granted; hearing refixed for 03.09.2026
03.09.2026	Personal hearing
10.09.2026	ITC ledger extracts filed
28.09.2026	This order; DRC-07 uploaded; order served
14.05.2027	Last date for this order under Section 74-A(7)

Annexure B: Compliance with Section 75

Provision	Requirement	Where met
75(1), (11)	Exclude periods of stay or of pending appeals	None to exclude (Part 3.8)
75(2), (2-A)	Consequence if appellate forum finds suppression not established	Not engaged: no suppression found (Issue 5)
75(3)	Time limit for orders on remand	Not applicable: original order (Part 7)
75(4)	Hearing on request or where decision is adverse	Part 3.6
75(5)	Adjournment for sufficient cause, reasons recorded, no more than three	One adjournment (Part 3.6)
75(6)	Relevant facts and basis of decision	Parts 5 and 6
75(7)	Not beyond the SCN in amount or grounds	Parts 4 and 7
75(8)	Interest and penalty follow any appellate change in tax	Part 10
75(9)	Interest payable whether or not specified	Issue 6; Annexure C
75(10)	Deemed conclusion if order out of time	Order in time (Issue 1)
75(12)	Unpaid self-assessed tax recovered under Section 79	Not applicable: no declared tax unpaid
75(13)	No second penalty for the same act	Issue 6

Annexure C: Computation of interest

Rate 18% a year, from the start date to 28.09.2026, both inclusive. Interest is computed separately for CGST and SGST and added; IGST and cess are nil.

Head	CGST (₹)	SGST (₹)	From	Days	Provision	Interest (₹)
A. Q Traders ITC	85,000	85,000	21.01.2025	616	50(3)	51,644
B. Staff-meals ITC	27,000	27,000	21.04.2025	526	50(3)	14,008

Head	CGST (₹)	SGST (₹)	From	Days	Provision	Interest (₹)
C. Common ITC	45,000	45,000	01.04.2025	546	50(1), r.42(2)	24,234
Total						**89,886**

Interest per tax head: A ₹25,822 each; B ₹7,004 each; C ₹12,117 each; total ₹44,943 each. Interest of ₹7,652 on the ₹36,000 paid on 25.06.2026 has been paid and is not included.

Annexure D: Documents considered

No.	Document	Source
1	Audit report (Form GST ADT-02) dated 10.04.2026	Available on common portal
2	Invoice-wise statement of ITC in dispute; GSTR-1, GSTR-3B, GSTR-2B and GSTR-9 data for FY 2024-25 and April–May 2025	Available on common portal
3	Portal record of Q Traders' returns and cancellation of registration	Available on common portal
4	Information on recovery proceedings against Q Traders	Disclosed at hearing, 03.09.2026
5	Invoices, e-way bills and bank statements for purchases from P Foods and Q Traders; Q Traders' letter dated 02.06.2026	Filed by Taxpayer
6	Caterer's invoices; staff register; warehouse lease; invoices for rent, security and maintenance	Filed by Taxpayer
7	ITC ledger extracts, April 2024 to May 2025	Filed by Taxpayer, 10.09.2026
8	Reply (Form GST DRC-06) dated 10.06.2026; reply to audit report dated 25.04.2026	Filed by Taxpayer