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FROM DOCUMENTARY COMPLIANCE TO TRANSACTION VERIFICATION: A CRITICAL ANALYSIS OF FRAUDULENT INPUT TAX CREDIT UNDER THE GST REGIME

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Abstract

Input tax credit (ITC) is the mechanism that makes the Goods and Services Tax a tax on value added, and fraud on ITC is the system's most persistent vulnerability. Indian law has long answered that vulnerability with a documentary architecture: a credit is claimed on a tax invoice, matched through returns, and supported by e-invoices and e-way bills. A recent press-reported departmental notice, alleging that photographs and recycling certificates were digitally manipulated to support credit claims for e-waste services, illustrates what that architecture cannot do. A record can be valid on its face yet correspond to no supply. This article asks whether the existing ITC framework can detect and deter fraud supported by apparently valid but fabricated electronic compliance material, and whether Indian law should move towards risk-based transaction verification. Using doctrinal method, it examines the Central Goods and Services Tax Act 2017, the Rules, CBIC circulars, and decisions of the Supreme Court and High Courts, with particular attention to *State of Karnataka v Ecom Gill Coffee Trading Pvt Ltd*. It argues that Indian law runs together three distinct questions: whether a supply occurred, whether tax reached the exchequer, and whether the recipient was culpable. It also argues that the corroboration demanded in *Ecom Gill* is itself documentary and so vulnerable to fabrication. The article proposes a statutory framework of tiered, risk-triggered verification, a prescribed evidentiary standard grounded in independence of provenance, a bounded safe harbour, and procedural safeguards for algorithmic and electronic evidence.

Keywords: Goods and Services Tax; Input Tax Credit; Fake Invoices; Digital Tax Fraud; Transaction Verification; Taxpayer Due Diligence; Electronic Evidence; GST Compliance

I. Introduction

A tax invoice is a statement about the world. It says that a supplier delivered something to a recipient and charged tax on it. The Goods and Services Tax (GST) treats that statement as the starting point for a credit that the recipient can set against its own liability. The credit is not a favour at the margin of the system. It is the mechanism by which GST taxes value added rather than turnover, and it is the reason that a fraudulent invoice is worth money.¹

The reported scale of the problem is large. Parliamentary replies, as reported by the press, record that central GST formations detected fake ITC of Rs 36,374 crore in 2023-24 across 9,190 cases, and that ITC fraud accounted for 15,283 of the 30,056 evasion cases detected in 2024-25, with evasion of Rs 58,772 crore.² Two cautions apply. These are detections and allegations, not adjudicated findings, and the series differ in coverage: a figure of Rs 2.01 lakh crore attributed to the Directorate General of GST Intelligence (DGGI) for 2023-24 in one of the secondary papers consulted for this article could not be reconciled with the Parliamentary series for central field formations, and I do not rely on it.³ What can be said with confidence is that the enforcement apparatus itself identifies fake ITC as a major and recurring category of fraud.

The legal problem this article addresses is narrower than 'fake invoices'. Early fake-invoice fraud was crude: shell entities, stolen identities, invoices for nothing. The prevailing response was documentary. Registration was tightened, invoices were matched against returns, e-invoicing and e-way bills were introduced, and the recipient's entitlement came to depend, by statute, on possession of the right documents. That architecture works against crude fraud. It is far less effective against fraud that manufactures the documents the architecture demands. The question is what GST law should do when apparent compliance is itself the instrument of deception.

A reported controversy supplies a contemporary illustration. On 30 September 2026, Reuters reported on an August 2026 departmental notice alleging that three appliance manufacturers had claimed ITC on e-waste recycling services that were never rendered, and that photographs

¹Central Goods and Services Tax Act 2017 (CGST Act), s 2(62), 2(63) and 16(1). The Act is supplemented by the Integrated Goods and Services Tax Act 2017 (IGST Act) and State GST Acts.

²Fake ITC claims detection by central GST officers up 51% at Rs 36,374 crore in FY24' *Deccan Herald* (29 July 2024) <https://www.deccanherald.com/business/fake-its-claims-detection-by-central-gst-officers-up-51-at-rs-36374-crore-in-fy24-3126661> accessed 5 October 2026.

³Saptarshi Datta, Himanshu Thakkar and Siddharth Dabhade, 'Combating GST Input Tax Credit Fraud in India: Forensic Accounting, Data Analytics, and Legal Enforcement Strategies' (2026) 5(1) *International Journal of Management, Public Policy and Research* 37, 42.

and certificates offered as proof of collection and processing had been manipulated.⁴ The notice has not, to my knowledge, been published, its allegations are contested or awaiting reply, and no adjudication has occurred. I use the episode as a case study of a structural problem, not as a source of conclusions about any party.

The article makes three arguments. First, Indian ITC law conflates three questions that should be kept apart: whether a supply occurred, whether tax reached the exchequer, and whether the recipient knew or should have known of a defect. Different evidence, burdens and consequences belong to each. Second, *State of Karnataka v Ecom Gill Coffee Trading Pvt Ltd* is the strongest judicial authority for requiring proof of the transaction behind the invoice, but the corroboration it demands (vehicle details, freight, acknowledgments of delivery) is documentary and can be fabricated. The judgment therefore points to a principle, namely independence of proof, that it does not itself develop. Third, a shift towards transaction verification is justified only if it is risk-based, rule-governed and accountable. Indiscriminate verification would impose unbounded investigative duties on honest recipients and hand officers opaque discretion. The article closes with a reform framework designed to keep revenue protection, fraud prevention, commercial certainty and procedural fairness in tension rather than in sequence.

The method is doctrinal. Primary sources are statutes, rules, notifications, circulars and judgments; secondary sources are used to identify questions and comparative evidence, not as authority for propositions of law.

II. Conceptualising ITC and Fraud under GST

A. What the credit is, and why that matters for verification

Courts have characterised credit in two ways that pull in different directions. In *Eicher Motors Ltd v Union of India*, the Supreme Court treated Modvat credit as a vested right once the input duty had been paid.⁵ In *Jayam & Co v Assistant Commissioner*, it treated ITC under the Tamil Nadu VAT Act as a concession whose statutory conditions must be strictly complied with.⁶ The tension is real, but for present purposes it can be put in a single proposition. The credit is a legal entitlement that crystallises only when the statutory conditions are met, and the

⁴Aditya Kalra, 'Exclusive-Haier, Godrej, Blue Star failed to detect fake e-waste recycling claims, India notice shows' (Reuters, 30 September 2026), syndicated at <https://1027wbow.com/2026/09/30/exclusive-haier-godrej-blue-star-failed-to-detect-fake-e-waste-recycling-claims-india-notice-shows/> accessed 5 October 2026.

⁵*Eicher Motors Ltd v Union of India* (1999) 2 SCC 361.

⁶*Jayam & Co v Assistant Commissioner* (2016) 15 SCC 125, paras 11–12.

conditions in section 16 are framed as facts about the world: the recipient holds a tax invoice, has *received* the goods or services, and the tax has been paid.⁷ A document can be proof of a fact; it cannot be the fact.

Section 155 makes the allocation of proof explicit: where a person claims to be eligible for ITC, the burden of proving the claim lies on that person.⁸ The significance of this provision is often underestimated in discussion of *Ecom Gill*, to which I return. The burden is a settled feature of the statute and not an invention of the Supreme Court.

B. A taxonomy of defective invoices

The vocabulary of 'fake' invoices is loose in practice and the statute does not define it.⁹ Because different consequences attach to different defects, the categories need to be kept distinct.

A *genuine invoice* records a supply that took place, between the persons named, of the goods or services described, at the value stated. An *invoice without underlying supply* records no supply at all, and is the core case of ITC fraud. An *inflated invoice* records a real supply at an overstated value or rate; the supply exists, and the defect lies in quantum or classification. *Circular trading* involves invoices passing among related or controlled entities without real movement of value or goods, generating credit or turnover. *Shell-company transactions* involve invoices issued by registrations that have no real business at the stated place. These last three categories may overlap with the second, but they are analytically separate, because in inflated-invoice cases a supply exists and a proportionate remedy is possible, while in the pure no-supply case it is not.

Two statutory categories cut across these. *Wrongful availment* is taking credit without satisfying the conditions of entitlement; *wrongful utilisation* is applying credit already in the ledger to discharge liability.¹⁰ Credit may be wrongly availed yet never utilised; blocking,

⁷CGST Act, s 16(2)(a)–(c). The conditions were restructured by the Finance Act 2021 and the Finance Act 2022, with effect from 1 January 2022 and 1 October 2022 respectively, which inserted s 16(2)(aa) (supplier's furnishing of invoice details in the outward statement, communicated to the recipient) and amended s 16(2)(c)..

⁸CGST Act, s 155.

⁹The CGST Act does not define a 'fake invoice'. The term is used in a Standard Operating Procedure circulated by the CBIC (Commissioner (Investigation)) to the GST Council Secretariat, which describes fake invoices as GST invoices raised by an entity without actual supply of goods or services or payment of GST: 'Standard Operating Procedure (SOP) for Tackling Fake Invoice Cases' <https://gstcouncil.gov.in/sites/default/files/SOP-for-Tackling-Fake-Invoice.pdf> (as cited in the secondary literature; I have accessed the text as reproduced at <https://taxguru.in/goods-and-service-tax/sop-utilising-fake-invoice-issuers-dataset-sgst-authorities.html> accessed 5 October 2026).

¹⁰CGST Act, ss 73 and 74 (and, for periods from 2024-25, s 74A) refer to input tax credit 'wrongly availed or utilised'. The distinction matters because blocking the electronic credit ledger under CGST Rules 2017, r 86A operates on credit that is available but not yet utilised.

discussed below, targets precisely that interval.

A further category deserves recognition because the contemporary controversy turns on it: *digitally fabricated compliance documentation*. By this I mean electronic material (photographs, certificates, logs, GPS or weighbridge records, e-way bills) created or altered to give the appearance of statutory or regulatory compliance. It is distinct from a fake invoice in two respects. The fabricated material may be *corroborative* rather than constitutive: the invoice may be genuine as an instrument, while the evidence offered to show that the underlying activity occurred is false. And the fabrication may take place outside the GST system, in a parallel regulatory system such as extended producer responsibility, and reach the tax system only because the recipient relies on it.

C. Why fraud is the system's characteristic risk

Economic accounts of VAT fraud have long observed that credit mechanisms create refund-like claims on the exchequer that can be fabricated at low cost, and that fraud concentrates where the credit chain is long and the verification of upstream payment is weak.¹¹ Self-assessment compounds the risk: the tax authority depends on filings whose accuracy it cannot verify at scale. The secondary literature on India frames this through asymmetric information and moral hazard.¹² I note this framing but place no doctrinal weight on it. For legal purposes, the relevant point is simpler: any rule that makes entitlement turn on documents invites investment in producing documents.

III. The Legal Framework Governing ITC Verification

A. Entitlement and its conditions

Section 16 conditions credit on possession of a tax invoice or other prescribed document, receipt of the goods or services, payment of tax by the supplier (directly or through credit), and the filing of the recipient's return, with a time limit for availment.¹³ The receipt condition contains a deeming provision which is important for services: receipt is deemed where goods are delivered to another person on the recipient's direction, or where services are provided to any person on the direction and on account of the recipient.¹⁴ That deeming rule becomes

¹¹Michael Keen and Stephen Smith, 'VAT Fraud and Evasion: What Do We Know and What Can Be Done?' (2006) 59 National Tax Journal 861.

¹²Datta, Thakkar and Dabhade (n 3).

¹³CGST Act, s 16(2) and (4); CGST Rules 2017, r 36(1) (documents on which credit may be taken). Section 16(5) and (6), inserted by the Finance (No 2) Act 2024.

¹⁴CGST Act, s 16(2), Explanation.

significant in the e-waste case study, where the recipient's service was performed, if at all, on physical waste that the recipient never handled.

Since 2022 the statute has reinforced the supplier-side link. Matching provisions were recast and an invoice must appear in the supplier's statement of outward supplies for the recipient to be entitled.¹⁵ This does a great deal against the pure shell-invoice scheme, because a recipient cannot easily claim from a supplier who has not reported the supply. It does nothing against a supplier who reports a fictitious supply.

B. Records and the evidentiary base

Registered persons must keep accounts and records at their principal place of business and retain them for the period prescribed (seventy-two months from the due date of the annual return for the relevant year, as the section presently stands).¹⁶ A tax invoice must be issued in the form and with the particulars prescribed, and above specified turnover thresholds the invoice must be generated through the e-invoice system, which assigns an Invoice Reference Number and a QR code.¹⁷ Movement of goods above a prescribed value requires an e-way bill.¹⁸ Electronic records have a statutory route into evidence in GST proceedings under section 145, which makes certain computer printouts admissible subject to conditions, and the relevancy of statements made on summons is addressed in section 136.¹⁹

C. Demand, penalty and prosecution

Three distinct enforcement tracks follow a finding of wrongful credit, and the choice among them is where the substantive question of culpability is decided.

Civil recovery. For periods up to 2023-24, section 73 applies to non-fraud cases and section 74 to cases of fraud, wilful misstatement or suppression of facts to evade tax, with different limitation periods and penalty ladders; for 2024-25 onwards, the Finance (No 2) Act 2024 inserted section 74A, which applies a common notice limitation period and preserves the fraud/non-fraud distinction as one of penalty.²⁰ Interest runs under section 50.

¹⁵CGST Act, ss 37 and 41 as amended by the Finance Act 2022; GSTR-1 (outward supplies), GSTR-2B (auto-generated statement of ITC) and GSTR-3B (summary return) are the operative returns. The GST portal's Invoice Management System, introduced in late 2024, lets recipients accept, reject or keep pending invoices before GSTR-2B is generated: GSTN, 'Invoice Management System' advisory https://tutorial.gst.gov.in/downloads/news/revised_advisory_on_ims.pdf accessed 5 October 2026.

¹⁶CGST Act, ss 35 and 36.

¹⁷CGST Act, s 31; CGST Rules 2017, rr 46 and 48..

¹⁸CGST Rules 2017, r 138.

¹⁹CGST Act, ss 136 and 145.

²⁰CGST Act, ss 73, 74 and 74A (inserted by the Finance (No 2) Act 2024 for financial years 2024-25 onwards).

Penalty independent of demand. Section 122(1) lists contraventions attracting penalty equal to the tax evaded or credit wrongly availed (with a floor of Rs 10,000). Two clauses are directly relevant: clause (ii), issuing an invoice without supply, and clause (vii), taking or utilising credit without actual receipt of goods or services. Section 122(1A) extends penalty to a person who retains the benefit of such a transaction and at whose instance it was conducted.²¹ The CBIC has clarified how these provisions operate on a chain of fake invoices: the supplier who issues an invoice without supply cannot be subjected to demand of tax because no supply occurred, but is liable to penalty under section 122(1)(ii); a recipient who avails credit without receipt contravenes section 16(2)(b) and is exposed to demand under section 74 together with interest and penalty.²²

Prosecution. Section 132(1)(b) and (c) criminalise, respectively, issuing an invoice without supply leading to wrongful availment or utilisation of credit, and availing credit on such an invoice. Imprisonment of up to five years attaches where the amount exceeds Rs 500 lakh, and offences above that threshold are cognizable and non-bailable.²³ Section 135 creates a presumption of culpable mental state in prosecutions, rebuttable by the accused, and requires facts to be proved beyond reasonable doubt before the court treats the mental state as negated.²⁴ Arrest under section 69 requires the Commissioner to have 'reasons to believe' that the offence has been committed, and in *Radhika Agarwal v Union of India* the Supreme Court upheld sections 69 and 70 while holding that the safeguards of criminal procedure apply and that reasons to believe must rest on material, be recorded, and be capable of challenge by the arrestee.²⁵

D. Interim and administrative measures

Three measures operate before adjudication and deserve attention because they impose the practical burden of fraud suspicion on the taxpayer. Under section 67, officers may inspect, search and seize on 'reasons to believe'. Rule 86A permits the proper officer to block the

Under s 74, voluntary payment before notice attracts a penalty of 15%, within 30 days of notice 25%, within 30 days of the order 50%, failing which the penalty is equal to the tax. Section 74A preserves a graded structure, with sixty-day windows in the fraud limb.

²¹CGST Act, s 122(1)(ii), (vii) and (1A).

²²CBIC, Circular No 171/03/2022-GST (6 July 2022), as summarised in 'Fake Invoice | Applicability of Penalties & Demand | CBIC Clarification' <https://gsthero.com/blog/fake-invoice-applicability-of-penalties-demand-cbic-clarification/> accessed 5 October 2026.

²³CGST Act, s 132(1)(b), (c), (1)(i)–(iv), (4) and (5).

²⁴CGST Act, s 135.

²⁵*Radhika Agarwal v Union of India* 2025 INSC 272 (SC, 27 February 2025).

electronic credit ledger where he has reasons to believe that credit has been fraudulently availed, including on invoices issued by non-existent persons or without receipt of goods or services; and section 83 permits provisional attachment.²⁶ Registration may be suspended or cancelled, including where it was obtained by fraud, wilful misstatement or suppression of facts.²⁷ Separately, special all-India drives against suspected fake registrations have been mounted using analytics derived from GSTN data. CBIC Instruction 02/2024-GST, for example, directed a drive from 16 August to 15 October 2024, in which GSTN, with the Directorate General of Analytics and Risk Management, would identify high-risk GSTINs from risk parameters, to be supplemented by tools such as BIFA, ADVAIT, NIC Prime and e-way bill analytics and by human intelligence.²⁸

E. The structural observation

Read as a whole, the framework has a recognisable shape. It protects the exchequer at three moments: at registration, through supplier-side verification; at return, through matching; and after the event, through demand, penalty and prosecution. What it largely lacks is a prescribed standard for *proving the transaction* at the moment of claim or on a verification request. That gap is filled by judicial elaboration of the section 155 burden, which is where *Ecom Gill* enters.

IV. From Fake Invoices to Digitally Fabricated Compliance

A. What digitalisation changed

GST digitalised both compliance and the evidence of compliance. Invoices pass through an e-invoice portal; return data flow into an auto-generated statement of available credit; e-way bills record vehicle, route and consignment. For the tax administration these are valuable, because each document is time-stamped, structured and machine-readable, and because inconsistencies between them can be detected at scale. The international evidence on e-invoicing is cautiously favourable. A study of Italy's mandatory e-invoicing found a significant reduction in cross-border VAT fraud, measured through discrepancies in double-reported trade data, and a study of Peru found improvements in compliance.²⁹

²⁶CGST Act, ss 67 and 83; CGST Rules 2017, r 86A. On the standard for r 86A and its relation to s 83, see *Raghav Agarwal v Commissioner of Central Tax and GST* WP(C) 10980/2024 (Delhi HC, 24 September 2024) (Vibhu Bakhru and Sachin Datta JJ).

²⁷CGST Act, s 29(2); CGST Rules 2017, rr 21 and 21A.

²⁸CBIC, Instruction No 02/2024-GST, F No CBIC-20/16/30/2020-GST (12 August 2024) <https://cbic-gst.gov.in/pdf/instruction-02-2024-GST-12082024.pdf>.

²⁹Marwin Heinemann and Wojciech Stiller, 'Digitalization and Cross-Border Tax Fraud: Evidence from E-Invoicing in Italy' (2025) 32 International Tax and Public Finance 195; Matthieu Bellon and others, 'Digitalization

Digitalisation also changed the economics of forgery. A paper invoice was hard to forge convincingly at scale. An e-invoice is accepted by the portal if its structure validates and its identifiers are consistent; the portal confirms that the document is well-formed and properly authenticated, not that the transaction behind it occurred. Press commentary has made the same point in the Indian context: where both the e-invoice and the e-way bill are manufactured, the pair can pass as a genuine transaction on the portals.³⁰ The CBIC's own instruction on fake registrations tells officers to supplement analytics with 'human intelligence', which implicitly concedes the limits of system data.³¹

B. The shift from fabricating instruments to fabricating evidence

Three generations of fraud can be distinguished. The first fabricated the *instrument*: an invoice from a non-existent supplier. The second fabricated the *transaction trail*: shell entities with bank flows, e-way bills with invented vehicles, circular payments. The third, which the e-waste episode exemplifies, fabricates the *evidence of performance*: photographs of laden and empty trucks, certificates of processing, correspondence. Each generation answers the verification demands made of the previous one. When the law requires an e-way bill, e-way bills are produced; when the courts require proof of movement, proof of movement is produced. This is the central dynamic of the article. A verification regime that specifies in advance which documents suffice will be met by documents of that description.

V. The Contemporary E-Waste Documentation Controversy

A. What has been reported

The facts below are drawn from press reports of a notice that has not been made public, and they are allegations by tax authorities. Reuters reviewed a notice dated 27 August 2026, running to some 550 pages, sent to Haier India, Godrej & Boyce and Blue Star.³² According to that report, the notice alleged that the three companies had wrongly claimed tax credits totalling about US\$714,000 (Haier US\$367,900, Godrej US\$159,700 and Blue Star US\$186,600) on recycling services not in fact rendered, and that the compliance certificates had been issued by

to Improve Tax Compliance: Evidence from VAT E-Invoicing in Peru' (2022) 210 Journal of Public Economics 104661.

³⁰GST revenues remain high while fake invoicing menace continues' *Deccan Herald* (opinion) <https://www.deccanherald.com/opinion/gst-revenues-remain-high-while-fake-invoicing-menace-continues-1228984.html> accessed 5 October 2026..

³¹CBIC Instruction 02/2024-GST (n 28).

³²Kalra (n 4).

a recycler, WEEE-PRO Resource Recovery Solutions, which the notice says performed no e-waste work. The notice is reported to say that the underlying procurement, receipt and processing of e-waste is not established, that photographs said to show trucks laden and then emptied were digitally altered, and that one photograph time-stamped 29 minutes after sunset showed daylight and natural shadows. It is further reported to say that the three companies admitted that they had not independently verified the actual collection, transportation, receipt, dismantling or recycling.³³

The responses reported are different in kind. Godrej & Boyce and Blue Star said they would respond to the notice and were committed to legal compliance; they pointed out that the recycler had been authorised by the government. Blue Star said it had no reason to believe any irregularity existed but had stopped dealing with the vendor. Haier India said it would continue to cooperate. WEEE-PRO did not respond to Reuters, but the notice itself reportedly records that its officials denied wrongdoing and disputed the evidence; an executive is reported to have said that he edited photographs by 'adding a few clouds' but that this was not for commercial use.³⁴ Reuters adds that tax authorities are widening the inquiry across the industry, and that the episode follows a January government warning about fraudulent certification by spurious recyclers.³⁵

Three observations about the evidence of this record are in order. The document is a notice which, on the reports, appears to be a show-cause notice and not an adjudication order, and the companies had said only that they would respond. The press report does not identify the provisions invoked, so any statement about the legal basis of the notice is inference. And the statements attributed to the recipients' admissions and to the recycler's executive are as reported by Reuters from the notice; the recycler's executive disputes the evidence, as the notice itself records.

B. Legal issues that may become relevant

Without suggesting what the notice invokes, the factual allegations engage a recognisable cluster of provisions. If the recycling services were not rendered, section 16(2)(b) (receipt of services) is in issue, as is the deeming rule for services provided to others on the recipient's direction. If the recycler is found to have issued invoices without supply, sections 122(1)(ii)

³³ibid. Indian outlets report the credit amounts in rupees at roughly Rs 3.53 crore (Haier), Rs 1.79 crore (Blue Star) and Rs 1.53 crore (Godrej): 'Haier, Godrej and Blue Star Face Scrutiny Over E-Waste Tax Credit Claims' *The420.in* <https://the420.in/haier-godrej-blue-star-e-waste-tax-credit-claims/> accessed 5 October 2026.

³⁴Kalra (n 4).

³⁵ibid.

and 132(1)(b) are potentially relevant to the supplier, and sections 122(1)(vii) and 132(1)(c) to the recipient, though the latter depends on proof of the requisite mental state. Whether proceedings would proceed under sections 73/74 or section 74A depends on the financial year of each claim. Reuters notes that penalties for false claims can run up to 100 per cent; that ceiling corresponds to the fraud limb of the demand provisions or to penalty under section 122, but it is a general statement and not a description of what the notice proposes.

There is also a logically prior question that the reports do not resolve: what exactly was *supplied*? If the invoiced supply was a recycling service, the relevant performance is physical processing of waste. If it was the issue of a regulatory certificate, the character of the supply, and the proof that it occurred, may differ. The point is not academic. The statutory condition for credit is receipt of *goods or services*, and a regulatory certificate that is not itself a supply of anything would be a poor foundation for credit even if genuine.

C. Evidence: how fabricated material could be established

The notice, as reported, relied on several types of proof: examination of messaging records, comparison of photograph time-stamps against sunset data, analysis of images for alteration, and the statements of persons concerned. These are the kinds of evidence that belong in a proceeding concerned with fabricated electronic material. Part VIII considers what standard should govern them. Two points arise at once. A time-stamp or metadata inconsistency is evidence that a particular item is unreliable, but it does not establish that no activity occurred; the Revenue still has to show that the underlying activity was not performed, ordinarily through independent evidence such as the absence of facility records, throughput capacity, power consumption, vehicle movement data and bank flows. And an admission that the recipient did not independently verify performance is an admission of *non-verification*, not of knowledge of fabrication. The legal significance of non-verification depends on the standard of diligence the law requires, which is exactly what this article contends is unspecified.

D. What the controversy reveals

The reported facts illustrate five structural weaknesses.

First, *regulatory attestation substituted for tax verification*. The recipients, on their reported account, relied on a government authorisation held by the recycler. That is a rational reliance for a regulatory purpose, but registration under one regime says little about whether a particular supply occurred for the purposes of another.

Second, *invisibility of performance*. A purchaser of a service performed on someone else's

physical assets cannot observe performance. The Ecom Gill-type evidence (vehicle, freight, delivery acknowledgement) is designed for goods that the buyer receives; it fits awkwardly where the service is performed upstream of the buyer.

Third, *corroboration sourced from the supplier*. The photographs and certificates came from the party whose performance was in question. Corroboration generated by the person whose conduct is under examination is evidence of what that person wishes to show.

Fourth, *the absence of a prescribed diligence standard*. The reported complaint is that the companies did not verify; the statute does not say what they were obliged to verify. A standard defined after the event is a standard applied retrospectively.

Fifth, *the gap between regulatory and fiscal systems*. Tax authorities, apparently, must reconstruct from first principles information that a regulator for extended producer responsibility may hold or could hold: certificate generation records, facility registration, throughput. An integrated verification architecture would use it.

VI. Judicial Approaches to Transaction Genuineness and ITC

A. The decision in Ecom Gill

State of Karnataka v Ecom Gill Coffee Trading Pvt Ltd decided a group of appeals concerning input tax credit under section 70 of the Karnataka Value Added Tax Act 2003.³⁶ Section 70(1) put the burden on a dealer to prove that a claim to deduction of input tax is correct, and section 70(2) imposed a penalty on a dealer who knowingly produced a false invoice or other document to support such a claim. In the lead matter, the assessing officer had denied credit because the selling dealers had either cancelled their registrations or filed nil returns; in the Ecom Gill matter, of 27 sellers, some were de-registered, some had not filed returns, and some had denied turnover. The Tribunal and the High Court had allowed credit, on the footing that the buyers held invoices and, in some cases, had paid by account payee cheque.

The Supreme Court reversed. Three propositions can be extracted. First, the burden of proving the correctness of the claim lies on the purchasing dealer and cannot shift to the revenue; a claim to be a bona fide purchaser does not suffice.³⁷ Second, mere production of invoices or evidence of payment by cheque is not enough; the dealer 'has to prove beyond doubt the actual transaction', which may be shown by the name and address of the selling dealer, details of the vehicle that delivered the goods, payment of freight, acknowledgement of delivery, tax invoices

³⁶*State of Karnataka v Ecom Gill Coffee Trading Pvt Ltd* Civil Appeal No 230 of 2023 and connected appeals (SC, 13 March 2023) 2023 INSC 212 (MR Shah and CT Ravikumar JJ).

³⁷*Ecom Gill* (n 36) para 9.1.

and payment particulars, and actual physical movement of the goods is *sine qua non*.³⁸ Third, the statutory requirement to issue and retain a tax invoice under the Rules is only one of the documents needed to discharge the burden of showing genuineness.³⁹ The Court distinguished the Delhi High Court's decision in *On Quest Merchandising*, which had read down a provision denying credit for the seller's non-deposit of tax, on the ground that the burden of proof was not in issue there.⁴⁰

B. What the judgment does not hold

Careful reading limits the case in three ways that bear on its transposition to GST.

The factual predicate. The assessing officer had recorded reasons for doubting genuineness on the basis of evidence, notably cancelled registrations and sellers' denials of the sales. The Court emphasised that in none of the cases did the purchasing dealers produce any further supporting material.⁴¹ The case does not authorise doubt without a basis; it concerns what is required of a dealer once reasoned doubt has been raised. This matters for any reform, because it suggests a threshold: it is the *Revenue's* showing of articulable red flags that shifts the practical evidentiary burden.

The standard of proof. The phrase 'beyond doubt' is imprecise. Civil and tax adjudication normally proceeds on a preponderance of probabilities, taking account of surrounding circumstances and human probabilities.⁴² Read literally, 'beyond doubt' would impose a criminal standard on the taxpayer, which is hard to reconcile with the statutory scheme. The better reading is that the Court was describing the *quality* of material required, not setting a higher standard of proof than the law ordinarily demands.

The supplier-default issue. The judgment does not decide that a recipient loses credit merely because the seller did not pay tax. Commentators have noted that the Court distinguished rather than overruled *On Quest*, and the Delhi High Court's reading down of the provision in that line of authority, which turned on the distinction between bona fide purchasers and others, was left standing by the Supreme Court's dismissal of the revenue's special leave petition in *Arise India*.⁴³

³⁸*Ecom Gill* (n 36) paras 9.1 and 10.

³⁹*Ecom Gill* (n 36) para 13.

⁴⁰*Ecom Gill* (n 36) para 14.

⁴¹*Ecom Gill* (n 36) para 11.

⁴²*Sumati Dayal v Commissioner of Income Tax* 1995 Supp (2) SCC 453.

⁴³*Arise India Ltd v Commissioner of Trade and Taxes, Delhi* (Delhi HC, 26 October 2017), special leave petition dismissed in *Commissioner of Trade and Taxes, Delhi v Arise India Ltd* (SC, 10 January 2018). The Delhi High Court held that s 9(2)(g) of the Delhi VAT Act, in so far as it denied credit to bona fide purchasers for the seller's

C. Context and relevance: KVAT and CGST

Ecom Gill was decided on section 70 of the KVAT Act. Its holding about discharge of the burden rests on the text of that provision, and the Court did not purport to interpret the CGST Act. The statutory framework in which it was decided was a State VAT with no return-matching architecture of the GST kind, and the assessment years in the matters before the Court included 2010-11 and 2012-13. The transposition to GST therefore requires an argument, not an assumption.

The argument is available, and it has two parts. First, CGST section 155 is functionally equivalent to section 70(1) on the allocation of burden, as commentators noted immediately after the decision.⁴⁴ Second, the CGST Act's condition that the recipient must have *received* the goods or services (section 16(2)(b)) is a statutory basis for demanding proof of actual receipt, and the Circular on fake invoices treats absence of receipt as a contravention of that condition.

High Courts have begun to apply the decision in GST cases. The Allahabad High Court, in *Anil Rice Mill v State of Uttar Pradesh*, upheld proceedings under section 74 where the taxpayer produced invoices, e-way bills and bank payments but not freight payment, delivery acknowledgments or toll receipts, relying on *Ecom Gill* and its own earlier decision in *Shiv Trading*.⁴⁵ Equally, the same court has distinguished *Ecom Gill* where actual movement of goods and return compliance were established.⁴⁶ What is emerging is a fact-sensitive application, not a mechanical rule.

D. The deeper doctrinal significance: documents about documents

The enduring contribution of *Ecom Gill* is conceptual. It separates two things that earlier case law, and some Tribunals, had merged: the *documentary validity* of an invoice and the *genuineness of the transaction* it records. A valid invoice is some evidence of a transaction,

default, violated arts 14 and 19(1)(g) of the Constitution.

⁴⁴Nitesh Jain, 'Supreme Court Judgement in case of Ecom Gill on ITC & Implications under GST' *TaxGuru* (24 March 2023) <https://taxguru.in/goods-and-service-tax/supreme-court-judgement-case-ecom-gill-implications-gst.html> accessed 5 October 2026.

⁴⁵*Anil Rice Mill v State of Uttar Pradesh* Writ Tax No 886 of 2023 (Allahabad HC, 14 August 2024) (Piyush Agrawal J); see the account in PwC, 'Burden to prove ITC eligibility under the GST law is on taxpayer' (*Tax Insights*, 20 August 2024) https://www.pwc.in/assets/pdfs/news-alert/tax-insights/2024/pwc_tax_insights_20_august_2024_burden_to_prove_itc_eligibility_under_the_gst_law_is_on_taxpayer.pdf accessed 5 October 2026..

⁴⁶The Allahabad High Court has also distinguished *Ecom Gill* on its facts where movement and return compliance were established: see the account of Writ Tax No 3829 of 2025 (17 December 2025) in 'No Fraud, No Jurisdiction: Allahabad HC Draws a Clear Line under GST Section 74' *TaxGuru* <https://taxguru.in/goods-and-service-tax/fraud-jurisdiction-allahabad-high-court-draws-clear-line-gst-section-74.html> accessed 5 October 2026..

perhaps strong evidence in ordinary circumstances, but not conclusive evidence. This is a significant proposition and, in my view, correct. The statutory conditions for credit are conditions about facts.

But the list of evidence that the Court offers shows the limits of the approach. Vehicle details, freight receipts and acknowledgments of delivery are themselves documents. They are corroborative, and in a world where invoices are forged they will be forged too. The judgment thus resolves one layer of the problem (invoice alone is not enough) by retreating one step along an infinite regress (invoice plus further documents). In an age of cheap digital fabrication, further documents from the same party add little. What gives corroboration its value is not the volume of paper, but its *independence*: whether it originates from a source other than the person whose conduct is in question, whether it was generated contemporaneously by a system outside that person's control, and whether it can be cross-checked against other independent records. This suggests that *Ecom Gill* provides a foundation for transaction-level verification only if its reasoning is developed through the criterion of independence of provenance. I develop that criterion in Part XI.

VII. Documentary Compliance versus Transaction Authenticity

A. Three questions the law runs together

Credit disputes ordinarily involve three distinct factual and legal questions.

Did a supply take place? This concerns the existence of a transaction, for which the relevant statutory text is section 16(2)(b) and, at a deeper level, the definition of supply. If no supply occurred, no input tax was borne by the recipient, and a credit would be a gift from the exchequer. Bona fides are irrelevant to this question; an innocent recipient of an invoice for nothing has still received nothing.

Did the tax reach the exchequer? This concerns the supplier's compliance and engages section 16(2)(c) and the matching provisions. A supply may be real while the supplier fails to pay. Here the recipient's bona fides *are* relevant, as the Delhi High Court recognised in the VAT context and as the EU courts have recognised for a longer time.

Was the recipient culpable? This concerns knowledge, recklessness or negligence, and bears on penalty, prosecution and the characterisation of the case as one of fraud (sections 74, 122(1)(vii), 132). The evidentiary question is different: not what happened but what the recipient knew or should have known.

Indian law blends these. A recipient who cannot prove the first (for example because the

documents offered are suspect) may be treated as culpable on the third, because the same facts supply the red flags. A recipient who proves the first but not the second may lose credit for the supplier's default. The consequences differ markedly: loss of credit is a restitutionary consequence, penalty and prosecution are punitive. Treating the same factual shortcoming as a basis for all three is what generates both the appearance of arbitrariness for honest taxpayers and the temptation to over-allege fraud.

B. The case for transaction verification, and its costs

The case for moving towards verification of the transaction rests on the fabrication dynamic described above. If documents can be produced without transactions, entitlement cannot rationally be tied to documents alone. Verification at the level of the transaction targets the fact that the statute makes decisive.

The costs are equally real. Verification is expensive for taxpayers: small and medium businesses cannot audit the premises of their suppliers. It is expensive for the administration: field verification does not scale to the volume of invoices. It creates *discretion*: an officer who may demand 'further proof' of a transaction has a flexible instrument which can be used to extract compliance or payment. And it unsettles commercial certainty: businesses rely on the assumption that a validly invoiced purchase from a registered supplier yields credit. The earlier Delhi High Court reasoning in *Arise India* captures the point; an 'onerous burden' on a purchaser who has done all that the law requires, and who has no control over the seller, treats the honest and dishonest alike.⁴⁷

The relevant question is therefore not whether to verify but *how much, by whom, on what trigger, and with what consequences*. A regime that verifies everything burdens everyone; a regime that verifies nothing beyond the documents invites fabricated documents. Neither is defensible. The conclusion of this analysis is that verification must be *proportionate to risk*, and that the allocation of verification between taxpayer and administration should reflect who can do it most cheaply and reliably. The administration holds information that the recipient does not (cross-supplier data, bank flows reported to other authorities, registration histories); the recipient holds information the administration does not (the commercial context, the physical receipt, correspondence). A rational scheme assigns each what it can reasonably know.

⁴⁷*Arise India* (n 43).

VIII. Digital Evidence and Technology-Based Verification

A. *The evidentiary status of electronic compliance material*

The Bharatiya Sakshya Adhiniyam 2023 (BSA), in force since 1 July 2024, replaced the Indian Evidence Act 1872.⁴⁸ Three features matter here. Electronic and digital records may not be denied admissibility merely because they are electronic (section 61), electronic records in prescribed circumstances are treated as primary evidence (section 57 and its Explanations), and where a statement is to be given in evidence from computer output, section 63 requires a certificate in the form set out in the Schedule, which asks for the hash value of the record and is signed by the person in charge of the device and by an expert.⁴⁹

Two conclusions follow for GST proceedings. First, the *admissibility* of a GSTN record, an e-invoice or a recycler's photograph is rarely the real issue. The real issue is *weight*: whether the record is reliable proof that the thing it depicts occurred. Admissibility rules say a file is a document; they do not say it is true. Second, the certificate regime points in a useful direction because it requires hash values, which allow the integrity of a file as produced to be demonstrated. It addresses tampering *after* the file is secured, not fabrication *before* it, so a hash proves that the altered photograph is the same altered photograph, not that the scene was real. It is generally accepted that quasi-judicial adjudication is not bound by the technical rules of evidence that govern trials, and I assume the same of the BSA; sections 136 and 145 of the CGST Act provide separate gateways for computer printouts and for statements made on summons, but the policy of the BSA, that electronic evidence should be accompanied by technical assurance of integrity, is a sensible reference point for the standard to be expected of the Revenue when it alleges fabrication.⁵⁰

B. *What standard should the Revenue meet when alleging fabrication?*

When a tax authority alleges that apparently authentic electronic compliance documentation does not correspond to a genuine transaction, three layers of proof are involved, and the standard of evidence should rise with the gravity of the consequence.

Layer one: that the item is unreliable. Forensic findings that a photograph has been altered, or

⁴⁸Bharatiya Sakshya Adhiniyam 2023 (Act 47 of 2023), in force from 1 July 2024.

⁴⁹BSA, ss 57, 61 and 63 and Schedule. The BSA replaced s 65B of the Indian Evidence Act 1872, whose certificate requirement was authoritatively construed in *Anvar PV v PK Basheer* (2014) 10 SCC 473 and *Arjun Panditrao Khotkar v Kailash Kushanrao Gorantyal* (2020) 7 SCC 1. I rely on the secondary accounts of the Schedule's form, e.g. 'Electronic evidence under the BSA, 2023' *iPleaders* <https://blog.ipleaders.in/electronic-evidence-under-the-bsa-2023/> accessed 5 October 2026.

⁵⁰CGST Act, ss 136 and 145. I have not examined whether s 145 has been conformed to the BSA's terminology.

that its metadata is inconsistent with the scene (the reported sunset comparison is an example), establish unreliability. The method should be disclosed, the original files produced, and an expert opinion given in a form that allows testing. The provisions on expert opinion under the BSA, and the notified Examiner of Electronic Evidence under section 79A of the Information Technology Act 2000, supply an existing institutional route.⁵¹

Layer two: that the underlying activity did not occur. This does not follow from layer one. A poorly doctored photograph of a real delivery is still a poor photograph of a real delivery. The Revenue should show absence of the activity through independent evidence: facility capacity, utilities, vehicle movement records, financial flows, the statements of third parties. The standard is the ordinary civil standard of the preponderance of probabilities, applied with attention to surrounding circumstances.⁵²

Layer three: that the recipient knew or should have known. For penalty under the fraud limb, for section 122(1A) and for prosecution, the state of mind of the recipient must be established; the presumption in section 135 operates only in prosecutions, and even there it is rebuttable and does not dispense with the prosecution's burden to establish the foundational facts. For penalty, the Supreme Court has long held that a penalty ordinarily should not be imposed for a technical or venial breach in the absence of deliberate defiance or dishonest conduct.⁵³ Sections 122(1)(vii) and 74 in their terms invite the question whether recipient culpability is an element, and the law would be clearer if the statute said so.

Third-party statements raise a further difficulty. Where the case depends on a statement of the supplier or its officers (as the reporting suggests in the e-waste matter), the Supreme Court's insistence that denial of an opportunity to cross-examine witnesses on whose testimony an adjudication depends can vitiate the order is directly engaged.⁵⁴

C. Technology-based verification: promise and constraints

The administration already uses analytics. CBIC and GSTN deploy tools such as BIFA, ADVAIT and NIC Prime to generate risk profiles, and instructions direct officers to combine them with human intelligence.⁵⁵ Both of the secondary papers consulted treat advanced

⁵¹BSA, s 39 (expert opinion, corresponding to s 45 of the Indian Evidence Act 1872); Information Technology Act 2000, s 79A.

⁵²*Sumati Dayal* (n 42).

⁵³*Hindustan Steel Ltd v State of Orissa* (1969) 2 SCC 627.

⁵⁴*Andaman Timber Industries v Commissioner of Central Excise* (2015) 15 SCC 748.

⁵⁵CBIC Instruction 02/2024-GST (n 28).

analytics, risk-profiling, invoice matching and artificial intelligence as part of the answer.⁵⁶ I agree with the direction but want to set out the legal conditions of acceptability.

The analytic techniques have distinct uses. *Invoice and three-way matching* (invoice, e-way bill, payment) tests internal consistency. *Network analysis* identifies shared directors, addresses, IP addresses and phone numbers: the Delhi State GST department's investigation of a Rs 347 crore fake-billing scheme, for example, relied on shared IP addresses, contact numbers and email addresses among firms.⁵⁷ *Risk scoring* ranks taxpayers for scrutiny. *Integration of financial and tax data* tests whether the declared business is consistent with bank and customs flows.

Each is subject to constraints that law must address. A risk score is a *prediction*, not a finding; false positives will fall on honest taxpayers, and where the score triggers blocking of credit under rule 86A or issuance of a notice, the cost of a false positive is borne at once. Algorithmic opacity makes it hard for a taxpayer to know what is alleged. Data quality is uneven, and a mismatch may reflect a clerical error. Privacy interests are engaged by the integration of bank, tax and other personal data, and the constitutional standard of proportionality discussed below applies.⁵⁸ The upshot is that technology belongs in the *selection* and *investigation* of cases, not in their *decision*. A flag from a model is a reason to look, never a reason to find.

D. What the comparative experience adds

The EU experience is instructive on two points. On the recipient's position, the Court of Justice has held since *Kittel* that a taxable person who knew or should have known, by his purchase, that he was participating in a transaction connected with fraudulent evasion of VAT loses the right to deduct; in *Mahagében* and *Bonik* it held that the authorities may not deny deduction because of upstream fraud unless they establish, on the basis of objective evidence, that the taxable person knew or should have known.⁵⁹ The Court's approach in *Mahagében* has been summarised as holding that a tax authority cannot, as a general rule, require a trader to verify that its supplier has filed returns and paid its VAT. These authorities have no counterpart in the Indian statute, but they offer a model of how to separate the question whether a supply is

⁵⁶Datta, Thakkar and Dabhade (n 3) 45; Madan and Sharma (n 3) 6–7..

⁵⁷Delhi government's GST dept unearths Rs 347 crore "fake billing scam" *Deccan Herald* (PTI) <https://www.deccanherald.com/amp/story/india%2Fdelhi-governments-gst-dept-unearths-rs-347-crore-fake-billing-scam-1066953.html> accessed 5 October 2026. The report describes an official statement; the allegations had not been adjudicated.

⁵⁸*Justice KS Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1..

⁵⁹Joined Cases C-439/04 and C-440/04 *Axel Kittel v Belgian State and Belgian State v Recolta Recycling SPRL* ECLI:EU:C:2006:446, paras 56–61.

genuine from the question whether the recipient is to blame. On digital administration, the EU's VAT in the Digital Age package, adopted in 2025, introduces digital reporting requirements based on structured e-invoicing for intra-EU transactions, and the evidence from Italy suggests that mandatory e-invoicing reduces cross-border fraud, though the studies concern a different kind of fraud (missing-trader fraud in cross-border trade) and the measure of success is indirect.⁶⁰ The comparative lesson for India is not that e-invoicing is sufficient, but that its benefits depend on administrative follow-up through audit.

IX. Taxpayer Due Diligence and Recipient Liability

A. The scope of the question

How far should a recipient be required to verify the authenticity of a transaction before claiming credit? The question has an easy answer at the extremes. A recipient who knowingly participates in a fraud should not receive credit. A recipient who is required to investigate every supplier of every input cannot function. The difficulty lies in the middle, and it is made harder by an asymmetry: the Revenue defines diligence after the event, with the benefit of knowing the fraud, while the taxpayer must decide before.

B. A spectrum of diligence

Diligence measures can be arranged by cost and by what they establish. *Supplier verification* (checking GST registration status and filing history on the portal) is cheap, standard and proves little about a given transaction. *Invoice and e-way bill verification* confirms the document trail. *Payment verification* (through banking channels) is evidence that money moved, though circular flows can fabricate this too. *Physical receipt records* (goods inwards register, weighbridge slips, inventory movement) are within the recipient's own control, are reasonably cheap and strongly corroborate receipt of goods. *Transport documentation* adds an independent source when it comes from a third-party carrier or toll system. *Supplier capacity* (does the supplier have the premises, equipment, staff and power to produce what it invoiced?) is relevant but costly; it is ordinarily proportionate only for large or unusual purchases. *Commercial correspondence* and *third-party documentation* have value in proportion to their independence. On this spectrum the distinction the paper's argument requires can be drawn. *Reasonable diligence* is the set of measures a prudent business in the recipient's position would take,

⁶⁰Council Directive (EU) 2025/516 of 11 March 2025 amending Directive 2006/112/EC as regards VAT rules for the digital age; Heinemann and Stiller (n 29).

proportionate to the value, novelty and risk characteristics of the transaction, and verifiable from records in the recipient's own possession. An *unrealistic obligation* would require the recipient to audit the supplier's own operations, or those of the supplier's suppliers, or to guarantee the supplier's tax payment. The first is an acceptable condition of an entitlement which the state funds. The second converts the taxpayer into an unpaid tax inspector.

C. Receipt of services performed on third-party assets

The diligence question takes on a distinct form for services whose performance the buyer cannot observe: recycling, certification, compliance consulting, marketing, back-office services. For goods, physical receipt is observable. For services, the buyer's evidence of receipt is the output (a report, a certificate, a deliverable) and the buyer's ability to verify performance depends on the service's nature. A rational diligence standard for such services should be risk-based, requiring more of the buyer where performance is invisible, where the supplier is new or thinly capitalised, where payment is out of proportion to the work, and where the buyer's own regulatory interest in the output (as in compliance certificates) creates an incentive to accept it without scrutiny. That last factor needs care, because it is the point at which a purchaser's diligence becomes a question of reasonable suspicion, and it is why regulatory-compliance purchases should be placed in a higher-risk tier than ordinary inputs.

D. Protection for the bona fide recipient

Should the law give greater protection to recipients who have complied with prescribed requirements? The *Arise India* line says that denying credit to bona fide purchasers for the seller's default fails to distinguish between the diligent and the complicit and so offends equality. The reasoning supports a statutory safe harbour, but the safe harbour must be shaped carefully.

A safe harbour cannot preserve credit where *no supply occurred*. The condition of receipt is a condition about facts, and an innocent recipient of a fabricated invoice has no entitlement to the credit, though it may well have a claim against the supplier. What a safe harbour *can* do, legitimately, is (i) preserve credit where a supply is established but the supplier has defaulted on payment of tax, (ii) exclude penalty and prosecution where the recipient complied with the prescribed diligence and had no knowledge, and (iii) fix the date from which a new diligence standard applies. This division respects the structure of the three-questions analysis in Part VII.

X. Constitutional and Procedural Constraints

A. Article 14: arbitrariness and classification

The strongest constitutional objection to a verification regime is that it may be arbitrary. A provision or practice that treats honest and dishonest purchasers alike lacks a rational basis, as the Delhi High Court held in the VAT context. An unstructured discretion to demand 'further proof' is also vulnerable, because it permits unequal treatment of similarly situated taxpayers without any criterion. The remedy is not to forbid verification but to require that it be rule-governed: criteria published, triggers stated, treatment consistent. The same principle supports risk-based verification, since classification by risk factors is a rational basis if the factors have a demonstrable relationship to fraud.

B. Article 19(1)(g) and proportionality

Restrictions on the right to carry on business must be reasonable, and the Supreme Court's proportionality analysis asks whether the measure has a legitimate aim, is rationally connected to it, is necessary in that no less restrictive alternative would achieve it equally, and strikes a fair balance.⁶¹ Applied to verification, the necessity limb is critical: if a risk-based, targeted measure would achieve equivalent protection at lower cost to honest taxpayers, an undifferentiated duty is disproportionate. That is the constitutional foundation for preferring risk-based to universal verification.

C. Article 21 and personal liberty

Verification may be preliminary to prosecution and arrest. *Radhika Agarwal* establishes that the powers under sections 69 and 70 are valid, that arrest must rest on material and recorded reasons to believe, and that the arrestee is entitled to the grounds. A finding that a recipient 'failed to verify' cannot by itself supply reasons to believe that the recipient committed an offence requiring a culpable mental state, and prosecution should not be a default consequence of an inadequate verification file. This article's call for a graduated response to non-verification is consistent with that holding.

D. Article 265, delegated standards and legitimate expectation

Article 265 provides that no tax shall be levied or collected except by authority of law. Denial

⁶¹*Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353; *Justice KS Puttaswamy (Retd) v Union of India (Aadhaar)* (2019) 1 SCC 1.

of credit on the ground of failure to meet a diligence standard not found in the Act or Rules, and instead articulated in circulars, instructions, or the elaboration of a judgment, raises a question of authority. Circulars issued under section 168 bind the department; they cannot enlarge the statute against the taxpayer.⁶² If a diligence standard is to be a condition of entitlement, it should be in the Rules.

Legitimate expectation points the same way. The assessment years in *Ecom Gill* were 2010-11 and following; the standard was declared in 2023. A taxpayer who bought in reliance on invoices and registration checks as then understood has a plausible expectation which the law should respect, particularly with penalty and prosecution.⁶³ A new evidentiary standard should operate prospectively, at least as regards penal consequences.

E. Natural justice, reasons and review

Procedural fairness has specific demands. Section 75 requires a hearing where adverse decision is contemplated and requires the order to set out the relevant facts and the basis of decision.⁶⁴ The Supreme Court has treated reasons as an essential component of fair decision-making and has said that a breach of natural justice should be established by showing prejudice.⁶⁵ For verification, this means an order denying credit on the footing that proof is insufficient should say what was required, why what was produced was inadequate, and what evidence the Revenue relied on, including any algorithmic indicator. Appeal lies under the Act, and the tribunal stage has, historically, been delayed, which compounds the cost of an erroneous initial decision.⁶⁶

XI. Towards a Risk-Based Transaction Verification Framework

A. Design premises

The framework proposed here rests on five premises drawn from the preceding analysis. Entitlement turns on a fact (supply), so some transaction-level proof is legitimate. Corroboration is valuable in proportion to its independence, so the law should specify the type of proof, not the quantity of paper. The cost of verification should be allocated to the party best

⁶²CGST Act, s 168; *Commissioner of Central Excise v Ratan Melting and Wire Industries* (2008) 13 SCC 1.

⁶³On legitimate expectation generally see *Navjyoti Co-operative Group Housing Society v Union of India* (1992) 4 SCC 477.

⁶⁴CGST Act, s 75(4) and (6).

⁶⁵*Kranti Associates Pvt Ltd v Masood Ahmed Khan* (2010) 9 SCC 496; *State of Uttar Pradesh v Sudhir Kumar Singh* (2021) 19 SCC 706.

⁶⁶CGST Act, ss 107–112.

placed to bear it. Culpability must be established separately from entitlement, with penal consequences confined to knowing or reckless conduct. And every power to verify must be accompanied by reasons, review and a record.

B. Proposals

Each proposal is stated in the form: what should change, why, how it should operate, and what safeguards are needed.

1. **A prescribed evidentiary standard for proof of supply.** *What:* amend the CGST Rules to prescribe, for goods and for services, categories of evidence that suffice to discharge the section 155 burden, graded by independence of provenance. *Why:* *Ecom Gill* leaves the content of the burden to case-by-case elaboration, and the specified items are documentary and forgeable. *How:* a rule under section 16 (or a new sub-section authorising rules) that classifies evidence into (a) system-generated or third-party records outside the claimant's control (bank records, toll or tracking data, carrier records, regulator portal records), (b) claimant-generated contemporaneous business records (inwards registers, stock ledgers), and (c) supplier-generated documents. Category (c) alone does not suffice; credit should be supported by (a) or by (b) corroborated by (a) at the level appropriate to the risk tier. *Safeguards:* the Rule should provide that no document of a type not prescribed may be required, and that the claimant may offer alternative equivalent proof.
2. **Three tiers of verification, triggered by stated indicators.** *What:* replace an undifferentiated demand for proof with tiers. *Why:* proportionality under article 19(1)(g), and the cost asymmetry between small and large buyers. *How:* in the baseline tier, ITC supported by a valid e-invoice, matched GSTR-2B entry and e-way bill (for goods) or payment trail (for services) is accepted without further proof, subject to rebuttable presumption of genuineness. In the elevated tier, triggered by published indicators (a supplier registered recently or with a thin filing history, a mismatch between supplier capacity and invoiced value, a services supply in a category designated as high-risk, abnormal patterns in the recipient's own purchases), the recipient is entitled to a notice stating the indicator and may be required to produce a defined dossier within a reasonable period. In the enhanced tier, triggered by objective red flags (cancellation of the supplier's registration with retrospective effect, adverse finding about the supplier in a completed investigation), the Revenue may require the full evidentiary showing under proposal 1. *Safeguards:* triggers published by

notification; no tier may be assigned by algorithmic score alone without recorded human review; tier assignment reviewable.

3. **A statutory safe harbour with defined limits.** *What:* insert a provision protecting recipients who have complied with the prescribed diligence. *Why:* to distinguish the diligent from the complicit, consistent with *Arise India* and with the separation of the three questions. *How:* where a supply is established and the recipient has complied with the diligence prescribed for the relevant tier at the time of the transaction, credit shall not be denied merely because the supplier failed to pay tax, and the recovery shall be pursued against the supplier first, with recourse to the recipient only on proof of knowledge or of disregard of an indicator the recipient was notified of or ought to have recognised. Where no supply is established, credit is denied and recovered with interest, but penalty under the fraud limb, section 122(1)(vii) and prosecution require proof of knowledge or recklessness. *Safeguards:* the safe harbour should not operate where the recipient was a participant or beneficiary-controller of the supplier; the burden to establish those exceptions lies on the Revenue.
4. **Enhanced supplier authentication and visible supplier-status signals.** *What:* strengthen verification at registration and give recipients a limited signal of supplier status in the invoice-management interface. *Why:* the cheapest point at which to stop a shell supplier is registration, and a recipient can use a signal that the system already holds. *How:* the registration rules should require physical-verification outcomes, bank-account linkage and, for high-risk applications, biometric authentication, with state-level inspection records feeding GSTN. The portal should show a limited-disclosure status (for example, registration under verification, return-filing regularity) without disclosing risk scores. *Safeguards:* a published appeal route against adverse status; disclosure of status categories only; protection against defamation-type harm to suppliers.
5. **Integrated verification across invoice, e-way bill, payment and regulator data.** *What:* require systematic cross-matching and, for services regulated by other statutes, structured data-sharing with the regulator. *Why:* the e-waste matter shows that evidence of performance may sit in another regulator's system. *How:* an inter-agency protocol under which designated GST authorities may verify, in a defined and logged way, regulator-held records (such as extended producer responsibility certificate generation and facility throughput) for categories identified as high-risk. *Safeguards:* purpose limitation, audit logs, notification to the taxpayer of the use made of the data, and

deference to the data-protection standard of proportionality.

6. **Digital-evidence standards for fabrication allegations.** *What:* prescribe by rule the minimum disclosure when the Revenue alleges fabrication of electronic material. *Why:* the weight of electronic evidence depends on method; fabrication allegations carry penal consequences. *How:* disclosure of original files, hash values, method statements and expert reports; reference to the notified Examiner of Electronic Evidence where the allegation is contested; recording of the standard of proof applied at each of the three layers in Part VIII. *Safeguards:* right to inspect and to cross-examine, per *Andaman Timber*.
7. **Algorithmic alerts: human review, reasons and audit.** *What:* provide by statute or rule that an automated risk output is not a ground for adverse action by itself. *Why:* false positives, opacity, and the constitutional requirement of reasoned decision-making. *How:* any rule 86A blocking, notice or ITC denial that originates from an analytic alert must record the officer's independent reasons; the taxpayer receives the category of indicator relied on; periodic independent audit of model performance (false-positive rates by sector and by taxpayer size) with an annual report to the GST Council. *Safeguards:* an effective, time-limited review mechanism for blocking orders, taking account of the Delhi High Court's treatment of rule 86A in *Raghav Agarwal*.
8. **Reasoned orders and a record of the evidentiary basis.** *What:* strengthen section 75(6) by requiring an order denying credit for failure of proof to state the tier, the evidence required, the evidence produced and the reason for rejecting it. *Why:* to make the evidentiary standard reviewable on appeal. *Safeguards:* prospective operation of any new standard; transitional protection for earlier periods.
9. **A graduated penalty ladder.** *What:* confine the fraud limb and prosecution to knowing or reckless conduct and prescribe a proportionate, lower civil consequence for non-compliance with diligence standards where no knowledge is shown. *Why:* the present structure allows a single shortcoming to be treated as both a failure of entitlement and as fraud. *How:* amend sections 74A and 122 to require, for the penal consequences, proof of knowledge or recklessness; ordinary non-compliance attracts loss of credit with interest. *Safeguards:* the Revenue bears the burden on mental state in adjudication, consistent with *Hindustan Steel*.

C. Objections and limits

Several objections should be met. It will be said that tiered verification gives fraudsters a map.

The response is that published indicators can be broad, and that the baseline tier is subject to post-claim audit; the framework regulates the *presumption*, not the Revenue's power to investigate. It will be said that safe harbours invite performative compliance. That risk is genuine: a dossier can be manufactured. The answer lies in the independence criterion, which relocates weight from the dossier to the third-party record, and in the retention of the Revenue's power to rebut. It will be said that the framework is expensive. It is, but the cost is borne where it can be borne most cheaply, and the alternative is the status quo in which the cost falls unpredictably after the event. Finally, the framework is not a cure for fraud that is truly collusive and well funded; no verification regime is. Its purpose is to make the law's demands specific, proportionate and answerable.

XII. Conclusion

Indian ITC law is built on an assumption that documentary validity indicates transactional authenticity. For the first generation of fraud the assumption was tolerable; for fraud that fabricates the documents themselves, and increasingly the evidence of performance, it is not. *Ecom Gill* recognised the distinction, but its remedy of requiring further documents is vulnerable to the same fabrication. The reported e-waste controversy, whatever its eventual adjudication, illustrates the problem: services whose performance the buyer cannot see, corroboration sourced from the supplier, and no prescribed standard for what the buyer should have verified.

The answer is neither to abandon documentary compliance nor to demand unlimited verification. It is to determine, rule by rule, how far documentary compliance suffices and when verification of the transaction becomes justified; to attach evidentiary weight to independence of provenance; to keep entitlement, tax receipt and culpability analytically separate; and to constrain verification with published triggers, reasons, review and human judgment. The framework proposed here is an attempt to protect, in order of the legal priorities the problem demands, the revenue, the integrity of the credit chain, the honest taxpayer, commercial certainty and procedural fairness. The first of these cannot be secured at the cost of the last without the rule of law paying the difference.