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GSTAT has inherent power to grant interim relief; writ not maintainable where effective appellate remedy exists

The Hon'ble Bombay High Court in the case of *The Hongkong and Shanghai Banking Corporation Ltd v. State of Maharashtra & Ors. [Writ Petition (L) No. 4698 OF 2026, order dated February 20, 2026]* held that the GST Appellate Tribunal possesses inherent and incidental powers to grant interim relief, including stay of recovery proceedings, and therefore, a writ petition is not maintainable when an effective alternative remedy exists before the Tribunal.

Facts:

The Hongkong and Shanghai Banking Corporation Ltd ("**the Petitioner**") was subjected to an Order-in-Original dated December 18, 2023 confirming tax liability, which was upheld by the Appellate Authority vide Order-in-Appeal dated June 12, 2024.

The State of Maharashtra & Ors. ("**the Respondent**") initiated recovery proceedings by issuing Intimation Notice dated February 3, 2026 and Recovery Notice dated February 6, 2026 during pendency of the appeal before the GST Appellate Tribunal.

The Petitioner contended that despite filing an appeal before the Tribunal and making payments through Form GST DRC-03A, coercive recovery proceedings were initiated, and since the CGST Act does not expressly empower the Tribunal to grant interim relief, the writ petition under Article 226 was maintainable.

The Respondent contended that the Petitioner had an efficacious alternative remedy before the Tribunal, which includes seeking interim relief, and therefore, the writ petition ought not to be entertained.

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Aggrieved by the recovery proceedings during pendency of appeal, the Petitioner approached the High Court by way of a writ petition seeking quashing of notices and interim stay.

Issue:

Whether the GST Appellate Tribunal has jurisdiction to grant interim relief?

Held:

The Hon'ble Bombay High Court in **Writ Petition (L) No. 4698 OF 2026** held as under:

- Observed that, Section 111 of the CGST Act, 2017 confers procedural autonomy on the Tribunal, guided by principles of natural justice and powers akin to a civil court.
- Noted that, Section 113(1) of the CGST Act, 2017 empowers the Tribunal to pass “such orders as it thinks fit,” which indicates wide appellate jurisdiction. The phrase “as it thinks fit” cannot be interpreted narrowly to exclude interim powers, when the Tribunal can pass final orders including confirmation, modification, annulment or remand.
- Held that, the power to grant interim relief, including protection against recovery pending appeal, is inherent and incidental to appellate jurisdiction. Denying such power would render the appellate remedy illusory and defeat legislative intent.
- Observed that, High Courts cannot function as interim forums when a statutory appellate mechanism exists and that the Goods and Services Tax Appellate Tribunal (Procedure) Rules, 2025 expressly recognize inherent powers and interlocutory applications for stay.
- Directed that, the Petitioner may approach the Tribunal within two weeks and granted limited interim protection till such application is filed and decided and further held that the writ petition is disposed of with liberty to approach the Tribunal and without adjudicating merits.

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Our Comments:

The judgment strictly follows the ratio of ***Income Tax Officer, Cannanore vs. M. K. Mohammed Kunhi [1968 SCC OnLine SC 71]***, wherein the Supreme Court held that appellate powers under Section 254 of the Income Tax Act inherently include the power to grant stay, even in absence of express statutory provision. The reasoning adopted is that appellate jurisdiction must be effective, and therefore includes incidental powers necessary to prevent frustration of the appeal. The present judgment aligns with this principle by applying similar reasoning to Section 113 of the CGST Act. The Court also relies on the principle of implied powers i.e., “an express grant of statutory power carries with it all reasonable means to make such grant effective,” thereby reinforcing that interim relief is not dependent on express statutory wording.

Relevant Provisions:

Section 111 of the CGST Act, 2017

“111. Procedure before Appellate Tribunal.-

(1) The Appellate Tribunal shall not, while disposing of any proceedings before it or an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and the rules made thereunder, the Appellate Tribunal shall have power to regulate its own procedure.

(2) The Appellate Tribunal shall, for the purposes of discharging its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

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(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or a copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) dismissing a representation for default or deciding it ex parte;

(g) setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and

(h) any other matter which may be prescribed.

(3) Any order made by the Appellate Tribunal may be enforced by it in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction,-

(a) in the case of an order against a company, the registered office of the company is situated; or

(b) in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.

(4) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.”

Section 112(9) of the CGST Act, 2017

“112. Appeals to Appellate Tribunal.-

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(9) Where the appellant has paid the amount as per sub-section (8), the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.”

Section 113(1) of the CGST Act, 2017

“113. Orders of Appellate Tribunal.-

(1) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the Appellate Authority, or the Revisional Authority or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision after taking additional evidence, if necessary.”

Rule 10 of the Goods and Services Tax Appellate Tribunal (Procedure) Rules, 2025

“10. Inherent powers. –

Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Appellate Tribunal to make such orders or give such directions as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Appellate Tribunal.”

Rule 29 of the Goods and Services Tax Appellate Tribunal (Procedure) Rules, 2025

“29. Interlocutory applications. –

Every interlocutory application for stay, direction, rectification in order, condonation of delay, early hearing, exemption from production of copy of order appealed against or extension of time prayed for in pending matters shall include all the information as per the prescribed GSTAT FORM-01 and the requirements prescribed in that behalf shall be complied with by the applicant, besides filing an affidavit supporting the application.”

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