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Recovery proceedings cannot be initiated when statutory appeal remedy is available and time to file appeal has not expired

The Hon'ble Bombay High Court in the case of ***Matrix Cellular (International) Services Pvt. Ltd. vs. Deputy Commissioner of State Tax [Writ Petition No. 4194 of 2026, order dated April 02, 2026]*** held that recovery proceedings cannot be resorted to when the statutory period to file an appeal is still available, as it would render the appellate remedy illusory.

Facts:

Matrix Cellular (International) Services Pvt. Ltd. (**'the Petitioner'**) filed a writ petition seeking to restrain the Respondent from taking coercive recovery actions pursuant to an Order in Appeal dated October 13, 2025 and Rectification Order dated February 18, 2026.

The Deputy Commissioner of State Tax (**'the Respondent'**) initiated coercive recovery proceedings against the Petitioner despite the availability of an appellate remedy.

The Petitioner contended that it intended to challenge the order dated February 18, 2026 before the GST Tribunal and that the statutory time limit to file such appeal was available till June 30, 2026 in terms of the Government Notification S.O. 4220(E) dated September 17, 2025 read with Section 112 of the Central Goods and Services Tax Act, 2017. But the Respondent contended that recovery proceedings were being undertaken in accordance with law.

The Petitioner was aggrieved by the coercive recovery actions initiated before expiry of the appeal period and approached the Hon'ble High Court by way of a writ of prohibition seeking protection against such recovery.

Issue:

Whether recovery proceedings can be initiated during the subsistence of the statutory period available for filing an appeal under the CGST Act, 2017?

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Held:

The Hon'ble Bombay High Court in ***Writ Petition No. 4194 of 2026*** held as under:

- Observed that, the Petitioner has a statutory remedy available under the Act to file an appeal up to June 30, 2026.
- Noted that, such remedy cannot be made illusory by resorting to recovery proceedings before the expiry of the appeal period.
- Observed that, upon filing of appeal, the Petitioner would be required to make a pre-deposit of 10% of the tax amount, and even otherwise, recovery cannot be resorted to.
- Recorded that, the Petitioner undertook to file an appeal with a stay application before the GST Tribunal on or before June 30, 2026.
- Directed that, no coercive action shall be taken against the Petitioner till the Petitioner files the appeal within four weeks and clarified that, in the event the Petitioner fails to file the appeal within the permissible time, the Department would be free to proceed with recovery in accordance with law.

Our Comments:

The judgment reiterates that the statutory right to appeal under Section 112 of the CGST Act, 2017 must remain meaningful and effective. The Court's reasoning is aligned with the principle that recovery proceedings should not defeat the legislative scheme providing an appellate remedy with pre-deposit conditions.

Section 112 of the CGST Act, 2017 provides for an appeal to the Appellate Tribunal, and the Government Notification dated September 17, 2025 extended the timeline for filing such appeals. The Court relied on this framework to conclude that recovery prior to expiry of such extended limitation would render the remedy illusory.

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A period of three months is prescribed for an assessee to file an appeal before the GST Appellate Tribunal (GSTAT), which may be extended upon demonstrating sufficient cause. This period is calculated from the later of: (i) the date on which the order sought to be appealed is communicated, or (ii) such date as may be notified by the Government. A delayed appeal may still be entertained at the discretion of the GSTAT for a further period of up to three months, provided sufficient cause is shown, such as medical reasons, force majeure events, etc.

Relevant Provisions:

Section 112 of the Central Goods and Services Tax Act, 2017

“112. Appeals to Appellate Tribunal.-

(1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal; or the date, as may be notified by the Government, on the recommendations of the Council, for filing appeal before the Appellate Tribunal under this Act, whichever is later.

(2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed fifty thousand rupees.

(3) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or Commissioner of Union territory tax, call for and examine the record of any order passed by the Appellate Authority or the Revisional Authority under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act for the purpose of satisfying himself as to the legality or propriety of the said order and may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within six months from the date on

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which the said order has been passed; or the date, as may be notified by the Government, on the recommendations of the Council, for the purpose of filing application before the Appellate Tribunal under this Act, whichever is later, for determination of such points arising out of the said order as may be specified by the Commissioner in his order.

...”

Government Notification dated September 17, 2025-

“S.O. 4220(E).—In exercise of the powers conferred by sub-section (1) of section 112 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Government, on the recommendations of the Council, hereby notifies the 30th day of June, 2026, as the date upto which appeal may be filed before the Appellate Tribunal under this Act in respect of all cases where the order sought to be appealed against is communicated to the person preferring the appeal before the 1st day of April, 2026 and all appeals in respect of order communicated on or after 1st April, 2026 may be filed before the Appellate Tribunal within three months from the date on which such order is communicated to the person preferring the appeal.”

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