GSTAT

Division Bench Court No. Court I

Filing No 2025121101000004

MANORANJAN DASH ....**Appellant**

Versus

COMMISSIONER, ODISHA, COMMISSIONERATE OF CT GST & ORS. ....**Respondent**

Counsel for Appellant
ABHISHEK OJHA

Counsel for Respondent

Hon'ble Suchismita Misra, Member(Judicial)

Hon'ble Ranjan Kumar Sahoo, Member (Technical)

ORDER

1. The appeal came up for consideration on the question of admission.
2. The Registry has issued a notice to the appellant for rectification of certain defects, pointing out that they have not made statutory pre-deposit and have not paid the required Court fees.
3. We heard the learned Counsel for the appellant.
4. Briefly, the facts are that the appellant was served with a show cause notice under Section 73 of the Central Goods and Services Act, 2017 (here in after referred to as 'the Act'), alleging that the appellant had claimed excess Input Tax Credit to the tune of Rs.5,67,237/- each under Central Goods and Services Tax and State Goods and Services Tax. The adjudicating authority confirmed the demand, interest, and penalty. The appellant had preferred appeal to the learned First Appellate Authority against the said Order. The learned First Appellate Authority reduced the total amount to Rs. 1,02,012/,

Rs. 98,680/- and Rs. 10,202/- towards tax, interest and penalty respectively. Against this appellate Order, the appellant has preferred the present appeal.

5. The questions before us are whether the appellant has rectified the defects pointed out by the Registry, whether the statutory Court fees have been paid by them and whether the Appellant is required to make statutory pre-deposit for admission of this Appeal.

6. The learned Counsel for the appellant submits that they have rectified all the defects pointed out by the Registry except the statutory pre-deposit and the Court fees. He submits that against the original demand of Rs. 11,34,474/- towards tax, Rs. 2,52,878/- towards interest and Rs. 56,724/- towards penalty, while filing appeal before the First Appellate Authority, they have already made a pre-deposit of 10% of the disputed tax, i.e. Rs. 1,13,447/-. The First Appellate Authority modified the original demand order and confirmed the demand of 1,02,012/- towards tax, Rs. 98,680/- towards interest and Rs. 10,202/- towards penalty, against which they have preferred the present appeal.

7. The learned Counsel while referring to sub-Section (8) of Section 112 of the Act submits that for an appeal to be admitted before the Appellate Tribunal, a taxpayer has to pay, out of the total tax demand, 100% of the tax admitted and a sum of 10% of the remaining amount of tax in dispute at the time of filing the appeal. Following the rationale, the pre-deposit for filing the appeal before the Appellate Tribunal works out to be Rs. 10,201/- i.e. 10% of the tax in dispute of Rs. 1,02,012/-. They have already deposited Rs. 1,13,447/- during the First Appellate proceedings reflecting in their Electronic Liability Register, which duly covers the pre-deposit as required for filing this appeal before the Appellate Tribunal.

8. The learned Counsel further contended that a similar issue was before the Hon’ble High Court of Jharkhand in the case of M/s Ashirwad Food Industries vs Union of India [W.P.(T) No. 469 of 2026], wherein the Hon’ble Court has held that,

"6. Ms. Amrita Sinha, learned counsel for the petitioner, submits that at the first appellate stage, the petitioner had made a pre-deposit of Rs.23,85,182/- because the demand in the order in original was approximately Rs.2.38 crores. She submits that the first appellate authority has considerably scaled down the demand which is now approximately Rs.40,00,000/-. Accordingly, she submits that the pre-deposit of 20% Page 9 of 78 would come to around Rs.8,00,000/-. She further points out that since the petitioner has already made a pre-deposit of approximately Rs.23.85 lakhs, the Tribunal should not now insist upon any further pre-deposit.

7. *We have perused the documents on record and based upon the same, we find substance in the contention advanced by Ms. Amrita Sinha. Considering the deposit of Rs.23.85 lakhs already made at the first appellate stage, we agree that there would be no question of making any further pre-deposit for instituting an appeal against the impugned order dated 30.06.2025."*

9. The learned Counsel prayed that the present appeal be admitted without making any further pre-deposit.

10. We have perused the matter. On the issue of statutory pre-deposit, the quantum of pre-deposit to be made while preferring appeal before the First Appellate Authority and the Appellate Tribunal is prescribed in sub-Section (6) of Section 107 and sub-Section (8) of Section 112 of the Act respectively.

11. The relevant extracts of both the provisions of the above Sections are reproduced below:

"Section 112. Appeals to Appellate Tribunal. **-**

………..

(8) No appeal shall be filed under sub-section (1), unless the appellant has paid-

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and

(b) a sum equal to ten per cent of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of section 107, arising from the said order, subject to a maximum of twenty crore rupees, in relation to which the appeal has been filed.

…………. "

"Section 107. Appeals to Appellate Authority. -

…………..

(6) No appeal shall be filed under sub-section (1), unless the appellant has paid-

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, subject to a maximum of twenty crore rupees, in relation to which the appeal has been filed.

…………. "

12. The Section 112 of the Act envisages payment of full amount of admitted tax, interest, fine, fee and penalty and ten per cent of the remaining amount of tax in dispute as pre-deposit while preferring appeal before the Tribunal. This amount is in addition to the pre-deposit already made under the Section 107 of the Act while preferring appeal before the First Appellate Authority. The fact before us is that the learned First Appellate Authority has reduced the original demand of tax to 1,02,012/-. In essence, the original demand of tax stands modified to the extent ordered by the learned First Appellate Authority. It is the submission of the learned Counsel that they have already made a pre-deposit of ten per cent of the original disputed tax amounting to Rs. 1,13,447/- during first appeal while preferring appeal before the First Appellate Authority, which covers the pre-deposit of Rs.10,201/- required for filing the present

appeal before the Appellate Tribunal. We find that the issue of pre-deposit decided by the Hon'ble High Court in the case of M/s Ashirwad Food Industries (*supra*) squarely applies to the present case of pre-deposit contested by the Appellant. We are inclined to hold that no further pre-deposit is required to be made under the Section 112 of the Act. We order accordingly.

13. On the issue of Court fees, the sub-Rule (5) of the Rule 110 of the Central Goods and Services Tax Rules, 2017 governing Court fees states,

"Rule 110. Appeal to the Appellate Tribunal. -

> *………*
>
> *(5) The fees for filing of appeal or restoration of appeal shall be one thousand rupees for every one lakh rupees of tax or input tax credit involved or the difference in tax or in put tax credit involved or the amount of fine, fee or penalty determined in the order appealed against, subject to a maximum of twenty five thousand rupees and a minimum of five thousand rupees:*
>
> *Provided that the fees for filing of an appeal in respect of an order not involving any demand of tax, interest, fine, fee or penalty shall be five thousand rupees.(6) There shall be no fee for application made before the Appellate Tribunal for rectification of errors referred to in sub-section (10) of section 112.*
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> *…………….. "*

14. The Registry has sent a defect notice to the appellant that the Court fee payable is Rs. 1000/- for each one lakh Rupees of demand and the minimum Court fee to be paid is Rs.5000/-. However, the appellant has paid only Rs.3000/- as Court fee. Hence there is

a short payment of Rs.2000/- The learned Counsel for the appellant agrees to pay the remaining statutory Court fees.

15. Upon proof of payment of the required statutory Court fees and verification of pre-deposit made during the first appeal by the appellant, the Registry shall place the matter before the Bench for Orders regarding admission of the appeal.
16. List the matter on 22nd July 2026.

Sd/-
(Suchismita Misra)

Sd/-
(Ranjan Kumar Sahoo)

Dated: 08.07.2026