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No Further Pre-Deposit is Required Before the Appellate Tribunal Where the Amount Already Deposited Before the First Appellate Authority Exceeds the Specified Limit of Pre-Deposit Payable on the Reduced Demand

The Hon'ble Goods and Services Tax Appellate Tribunal, Cuttack in the case of ***Manoranjan Dash v. Commissioner, Odisha, Commissionerate of CT GST & Ors. [Filing No. 2025121101000004, order dated July 08, 2026]*** held that no further pre-deposit under Section 112(8) of the Central Goods and Services Tax Act, 2017 ("**the CGST Act**") is required to be made for admission of an appeal before the Appellate Tribunal, where the amount already deposited before the First Appellate Authority exceeds the statutory pre-deposit payable on the reduced tax demand sustained in the first appeal. However, the deficiency in payment of statutory Court fees under Rule 110(5) of the Central Goods and Services Tax Rules, 2017 ("**the CGST Rules**") is required to be cured before admission of the appeal.

Facts:

Mr. Manoranjan Dash ("**the Appellant**") was served with a Show Cause Notice under Section 73 of the CGST Act, alleging excess availment of Input Tax Credit ("**ITC**") to the tune of Rs. 5,67,237/- each under the Central Goods and Services Tax and the State Goods and Services Tax. The Adjudicating Authority confirmed the demand along with interest and penalty, i.e., tax of Rs. 11,34,474/-, interest of Rs. 2,52,878/- and penalty of Rs. 56,724/-.

Aggrieved by the Order-in-Original, the Appellant preferred an appeal before the First Appellate Authority and, while filing the said appeal, made a pre-deposit of 10% of the disputed tax, i.e., Rs. 1,13,447/-, in terms of Section 107(6) of the CGST Act, which stands duly reflected in the Electronic Liability Register of the Appellant.

The First Appellate Authority substantially reduced the demand and confirmed Rs. 1,02,012/- towards tax, Rs. 98,680/- towards interest and Rs. 10,202/- towards penalty ("**the Impugned**").

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Order”). Aggrieved by the Impugned Order, the Appellant preferred the present appeal before the GST Appellate Tribunal, Cuttack.

The Registry issued a defect notice to the Appellant pointing out that the statutory pre-deposit had not been made and that the required Court fees had not been paid, since the Appellant had paid only Rs. 3,000/- as against the minimum Court fee of Rs. 5,000/- prescribed under Rule 110(5) of the CGST Rules.

The Appellant contended that, in terms of Section 112(8) of the CGST Act, the pre-deposit for filing the appeal before the Appellate Tribunal works out to Rs. 10,201/-, i.e., 10% of the tax in dispute of Rs. 1,02,012/-, and that the amount of Rs. 1,13,447/- already deposited during the first appellate proceedings duly covers the said requirement. Reliance was placed on the judgment of the Hon’ble Jharkhand High Court in ***M/s Ashirwad Food Industries v. Union of India [W.P.(T) No. 469 of 2026]***, wherein, on identical facts, it was held that no further pre-deposit is required where the deposit made at the first appellate stage exceeds the pre-deposit computed on the scaled-down demand.

Issue:

Whether any further pre-deposit is required to be made under Section 112(8) of the CGST Act for admission of an appeal before the Appellate Tribunal, where the amount already deposited before the First Appellate Authority under Section 107(6) of the CGST Act exceeds the pre-deposit payable on the reduced tax demand sustained in the first appeal?

Held:

The Hon’ble GST Appellate Tribunal, Cuttack in ***Filing No. 2025121101000004*** held as under:

- Observed that, the quantum of pre-deposit to be made while preferring appeal before the First Appellate Authority and the Appellate Tribunal is prescribed in Section 107(6) and Section 112(8) of the CGST Act respectively. Section 112 of the CGST Act envisages payment

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of the 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, which amount is in addition to the pre-deposit already made under Section 107 of the CGST Act while preferring appeal before the First Appellate Authority.

- Noted that, the First Appellate Authority has reduced the original demand of tax to Rs. 1,02,012/- and, in essence, the original demand of tax stands modified to the extent ordered by the First Appellate Authority.
- Noted that, the Appellant had already made a pre-deposit of ten per cent of the original disputed tax amounting to Rs. 1,13,447/- 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.
- Relied upon the judgment of the Hon'ble Jharkhand High Court in M/s Ashirwad Food Industries (supra) and observed that the issue of pre-deposit decided by the Hon'ble High Court squarely applies to the present case of pre-deposit contested by the Appellant.
- Held that, no further pre-deposit is required to be made under Section 112 of the CGST Act.
- Directed that, the deficiency in payment of statutory Court fees be cured before admission of the appeal, noting that the Court fee payable under Rule 110(5) of the CGST Rules is Rs. 1,000/- for every one lakh rupees of demand, subject to a minimum of Rs. 5,000/-, whereas the Appellant had paid only Rs. 3,000/-, resulting in a short payment of Rs. 2,000/-, which the Appellant agreed to pay.
- Accordingly ordered that, upon proof of payment of the required statutory Court fees and verification of the pre-deposit made during the first appeal, the Registry shall place the matter before the Bench for orders regarding admission of the appeal, and listed the matter on July 22, 2026.

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Our Comments:

The GST Appellate Tribunal, Cuttack has relied upon the statutory scheme contained in Section 107(6) and Section 112(8) of the CGST Act. Section 112(8)(b) of the CGST Act requires payment of 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 order appealed against. Where the First Appellate Authority reduces the demand, the tax in dispute before the Appellate Tribunal is confined to the reduced demand sustained in the first appeal. Therefore, where the deposit already made at the first appellate stage, computed on the higher original demand, itself exceeds the pre-deposit payable on the reduced demand, insisting upon a fresh deposit would amount to an empty formality and would unnecessarily block the working capital of the taxpayer. The requirement of pre-deposit is a measure to demonstrate the bona fides of the appellant and to safeguard the interest of the Revenue pending appeal, and is not a mechanism of revenue collection.

The judgment relied upon in ***M/s Ashirwad Food Industries v. Union of India [W.P.(T) No. 469 of 2026]*** arose on similar facts, wherein the demand in the Order-in-Original was approximately Rs. 2.38 crores, against which the petitioner had made a pre-deposit of Rs. 23,85,182/- at the first appellate stage. The first appellate authority considerably scaled down the demand to approximately Rs. 40,00,000/-. The Hon’ble Jharkhand High Court held that, considering the deposit of Rs. 23.85 lakhs already made at the first appellate stage, there would be no question of making any further pre-deposit for instituting an appeal against the appellate order. The GST Appellate Tribunal, Cuttack has now applied the same ratio at the Tribunal level, lending certainty to the position.

Courts have consistently adopted a purposive approach on issues relating to pre-deposit. The Hon’ble Bombay High Court in ***Oasis Realty v. Union of India [Writ Petition (ST) No. 23507 of 2022, order dated September 16, 2022]*** held that the pre-deposit of 10% of the tax in dispute under Section 107(6)(b) of the CGST Act can be made by utilising the balance available in the

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Electronic Credit Ledger. Even under the erstwhile regime, the CBEC vide **Circular No. 984/08/2014-CX dated September 16, 2014** clarified that payments made during investigation or audit shall be treated as deposits towards the mandatory pre-deposit under Section 35F of the Central Excise Act, 1944. Further, the CBIC vide **Circular No. 224/18/2024-GST dated July 11, 2024** recognised the adjustment of amounts already paid towards a demand against the pre-deposit required for filing an appeal before the Appellate Tribunal. The present ruling is in harmony with this consistent position that amounts already lying with the exchequer against the very same demand must be reckoned towards the pre-deposit obligation.

Accordingly, taxpayers whose demands have been substantially reduced by the First Appellate Authority need not make any fresh pre-deposit before the GST Appellate Tribunal where the amount already deposited under Section 107(6) of the CGST Act equals or exceeds 10% of the reduced tax in dispute. While filing appeals before the Appellate Tribunal, the appellants should quantify the pre-deposit on the demand sustained in the first appeal, claim credit for the deposit already reflected in the Electronic Liability Register, and ensure payment of the correct Court fees under Rule 110(5) of the CGST Rules, i.e., Rs. 1,000/- for every one lakh rupees of demand, subject to a maximum of Rs. 25,000/- and a minimum of Rs. 5,000/-, so as to avoid defect notices from the Registry and consequential delay in admission of the appeal.

Relevant Provisions:

Section 112(8) of the Central Goods and Services Tax Act, 2017

“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

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(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(6) of the Central Goods and Services Tax Act, 2017

“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.”

Rule 110(5) of the Central Goods and Services Tax Rules, 2017

“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 input 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.”

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