GSTAT

State Bench Bengaluru

Division Bench Court No. Court II

APL/258/BUR/2026

GOPINATH TM **.....Appellant**

Versus

MUKAND LIMITED, CHIRMAN MANAGING DIRECTOR, 97 97 62-A
MOUNT UNIQUE DR. D.G.DESHMUKH MARG MUMBAI MHMUC 400026 **.....Respondent**

Quorum

Hon'ble Sudha Koka, Member (Technical)
Hon'ble Srikanth Venkatraman, Member(Judicial)

Counsel for Appellant
SHREE KRISHNA SINGH
BALKESHWAR PRASAD
RAHUL
K K VARMA

PRABHAT KUMAR AC AR CGST

Counsel for Respondent
GOWRISHANKAR

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

whether remand order : No

Order reference no. : ZN570171026000028H **Date of order :** 07/10/2026

1.	GSTIN/Temporary ID/UIN -	
2.	Appeal Case Reference no. - APL/258/BUR/2026	Date - 29/05/2026
3.	Name of the appellant - GOPINATH TM , tmg.c020001@gov.in , 9845055404	
4.	Name of the respondant - 1. MUKAND LIMITED , nnpoojary@hospetsteels.com , 9892353661	
5.	Order appealed against -	
	(5.1) Order Type - Other order	

	(5.2) Ref Number - BGM-JJ-ADC-38-2023-24-GST	Date - 30/06/2023
6.	Personal Hearing - 07/10/2026 23/09/2026 21/09/2026	
7.	Status of Order under Appeal - Modified – Order under Appeal is modified	
8.	Order in brief - Subject Matter: Demand for interest under Section 50 of the CGST Act, 2017, and penalties under Section 122 arising from differential tax paid via debit notes/supplementary invoices under Section 142(2)(a) for pre-GST clearances (April 2017 – June 2017) subject to price escalation clauses. Core Dispute Revenue's Stance: Price escalations relate back to the original period of clearance. Therefore, statutory interest under Section 50 applies from the original due date, as Section 142(2)(a), 39(7), and 34(4) are purely procedural reporting mechanisms and do not create a fresh tax point. Respondent's Stance: Payment of differential tax through debit notes in September/October 2018 and reporting them via GSTR-3B/GSTR-1 for those months constitutes timely compliance under Section 39(7). They argued that Section 142(2)(a) creates a fresh liability date and that Supreme Court precedents (like Steel Authority of India) do not apply since formal provisional assessments were denied. Appellate Findings & Rationale Binding Precedent: Citing the Supreme Court's larger bench ratio in Steel Authority of India Ltd. v. CCE(reaffirming SKF India and International Auto), the order held that retrospective price escalations make the finalized price the true value of goods at the time of original removal. Nature of Deeming Fictions: Section 142(2)(a), 39(7), and 34(4) serve as administrative and procedural gateways for the electronic portal. They do not rewrite economic history or erase the time-value of money enjoyed during the interim period. Inapplicability of Penalty: The appellate authority upheld the dropping of penalties under Section 122, noting that the differential tax arose from an intricate transitional interpretation of law and contractual price variations rather than deliberate suppression, fraud, or contumacious conduct. Final Order Interest Demand: The Order-in-Appeal (OIA) setting aside the interest is set aside. The original interest demand of Rs. 13,85,623/- under Section 50 determined in the Order-in-Original (OIO) is restored and upheld. Penalty: The OIA's ruling quashing the penalty under Section 122 is confirmed. Result: The Revenue's appeal is partly allowe	
Summary of Order		
9.	If demand order then whether demand quantified: Yes	

Section-I

Particulars	Central tax		State/UT tax		Integrated tax		Cess		Total	
	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount
1	2	3	4	5	6	7	8	9	10	11
(a) Tax	0		0		0		0		0	0
(b) Interest	692811.5	692811.5	692811.5	692811.5	0		0		1385623	1385623
(c) Penalty	272209.5	0	272209.5	0	0		0		544419	0
(d) Fees	0		0		0		0		0	0
(e) Others										0
(f) Refund	0		0		0		0		0	0

10.	For Other orders and Demand orders which are not quantified:	
Issues as raised by proper officer	Issues as determined by Appellate/Revisional authority	Order by GST Appellate Tribunal
Any other	Dropped the demand of Interest and Penalty.	

Place :BENGALURU

Date : 07.10.2026

Signature

BENGALURU Sudha Koka

Designation : Member

Jurisdiction :Bengaluru

ORDER

Per: Sudha Koka, Member Technical (Centre)

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1. **Introduction: The Constitutional and Statutory Architecture of Transitional Tax Liability**

"Taxes are the price we pay for a civilized society, and the rule of law demands that fiscal statutes be interpreted not through the myopic prism of artificial legal fictions, but through the enduring reality of economic transactions and statutory intent."

This appeal concerns the legal transition from the erstwhile indirect tax regime to the Goods and Services Tax (GST) introduced on July 1, 2017. The central question is whether a retrospective upward price revision under a pre-existing contract, treated as a "deemed outward supply" via Section 142(2)(a) of the Central Goods and Services Tax Act, 2017, extinguishes historical interest liability on delayed tax payments, or whether the underlying economic reality requires the enhanced value to relate back to the original date of clearance.

The Respondent, M/s. Mukand Limited, cleared goods between April 2017 and June 2017, subsequently raising debit notes on September 29, 2018, and October 15, 2018, to discharge differential tax of Rs. 54,44,190/-. While the original adjudicating authority (OIO) correctly enforced statutory interest under Section 50, the First Appellate Authority (OIA) set aside the demand by misinterpreting the transitional provisions.

Applying the binding precedent of the Hon'ble Supreme Court in ***Steel Authority of India Ltd. v. Commissioner of Central Excise***, alongside ***CCE v. SKF India Ltd.*** and ***International Auto Ltd.***, this order evaluates the statutory matrix, restores the enforceability of interest, and addresses the issue of penalty.

1. **Chronology of Events (from OIO to OIA)**

Date / Period	Event / Milestone

April 2017 – June 2017	The Respondent (M/s. Mukand Limited) cleared goods under the erstwhile pre-GST regime, with transaction values subsequently subject to upward price revisions pursuant tocontractual escalation clauses.
01.07.2017	The Goods and Services Tax (GST) regime came into effect, bringing Section 142 of the CGST Act, 2017 into operation for transitional price adjustments.
29.09.2018 & 15.10.2018	The Respondent issued debit notes and supplementary invoices under Section 142(2)(a) of the CGST Act, 2017, declaring a differential taxable value and raising a differential tax liability.
September & October 2018	The Respondent voluntarily discharged the differential tax amounting to **Rs. 54,44,190/-** via debit notes (Nos. 9051005594, 9051005595, 9051005614, and 9051005615).
	Order-in-Original (OIO) No.: BEL/GST/000/DIVH/ASC/VM/05/2021-22 dt. 28.3.2022 passed by the Assistant Commissioner, Hosapete Division
Order-in-Original (OIO) DT 28.3.2022	The Adjudicating Authority passed the OIO, confirming the tax appropriation of Rs. 54,44,190/- and demanding interest of **Rs. 13,85,623/-** along with penalties under Section 122.

	Order-in-Appeal (OIA) No.: BGM-JJ-ADC-38-2023-24-GST Dated 30.06.2023 passed by the Additional Commissioner (Appeals), Belagavi.
Order-in-Appeal (OIA) DT p. 30.6.2023	Aggrieved by the OIO, the Respondent carried the matter in appeal. The First Appellate Authority passed the OIA, **setting aside the OIO** and accepting the assessee's contention that no interest is sustainable.
Current Proceedings	Aggrieved by the said OIA which set aside the valid interest demand of the OIO, the Revenue (Appellant) is presently in appeal before this appellate forum.

III. Grounds of Appeal of the Appellant (Revenue) Against the OIA

The Appellant (Revenue) challenges the Order-in-Appeal (OIA) on the following core grounds:

- **Error in Setting Aside OIO:** The OIA erred in setting aside the Order-in-Original (OIO) by holding that interest under Section 50 of the CGST Act, 2017 (the Act) is not recoverable on differential tax paid via supplementary invoices.

- **Flawed Interpretation of Section 39(7):** The ADC (Appeals) erroneously held that the due date for discharging GST on supplementary invoices is the 20th of the month following their *issuance*, rather than relating back to the month of the original invoices. Section 39(7) of the Act simply mandates paying tax due; whether tax is "due" depends on the Time of Supply (Section 12 of the Act), not the date a debit note is raised.

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Legislative Intent and Section 34(4): While Section 34(4) allows details of a debit note to be declared in the return of the month of its issuance, it is purely reporting machinery. As noted by the Law Committee during the 38th GST Council Meeting, ITC on debit notes is linked to the condition that *interest is paid when tax liability is discharged*.

- **Erroneous Dropping of Penalty:** The ADC (Appeals) dropped penalties under Section 122(2)(a) of the Act solely because no tax was deemed due from the taxpayer, which is legally flawed since tax was due from the date of actual supplies.

IV. Respondent's Defense Anchored on Section 142(2)(a) of the CGST Act, 2017

In defense of the OIA, the Respondent counter-argues as follows:

- **Compliance with Sections 39(7) and 34(4):** Declaring debit notes in GSTR-1 and paying GST in GSTR-3B for the month of issuance (Sept/Oct 2018) constitutes timely payment under Section 39(7).

- **Inapplicability of Section 12:** Section 12 applies only to supplies made *under the GST Act*. For pre-GST removals, Section 142(2)(a) treats supplementary invoices as "deemed outward supplies made under this Act," prescribing to a 30-day window from price revision. Compliance with this framework eliminates any delay or Section 50 interest.

- **Rejection of Provisional Assessment / *Steel Authority* Relevance:** The Department rejected their pre-GST request for provisional assessment, forcing clearances under normal self-assessment. Hence, the Respondent claims *Steel Authority of India Ltd.* (which dealt with provisional assessment finalization) does not apply to post-GST debit notes under Section 34(4).

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Immunity from Penalty: Relying on case law (*CCE v. H.M.M. Ltd.*, *Godrej Soaps*, *Essar Oil*, etc.), the Respondent argues that if the primary demand (interest) fails, penalties under Section 122 must automatically collapse.

V. Our Analysis and Findings

1. Examination of Appellant Grounds, Respondent's Counter, and Case Law via the ApexCourt's Ration in *Steel Authority of India*

A rigorous and logical synthesis of the rival submissions reveals the legal fallacy in the Respondent's defense when measured against the binding ratio of the Larger Bench of Hon'ble Supreme Court in ***Steel Authority of India Ltd. v. Commissioner of Central Excise*** [**(2019) 366 ELT 769 (SC)] (Steel Authority Case)** which upheld Apex Court's Division Bench judgments in **CCE & v. SKF India Ltd.(2009) 13 SCC 461 ; 2009 (239) ELT 385 (SC) and CCE v. International Auto Ltd. (2010) 2 SCC 67; 2010 (250) ELT 3 (SC)**

2.The Core Mandate of Steel Authority Ratio (Para 63 of S*teel Authority case)*:

The Supreme Court explicitly held in Paragraph 63 of Steel Authority Case that when a price escalation has **retrospective operation**, the later-discovered or finalized price becomes the true value of the goods *even at the time of original removal*. The Court observed that interpreting statutory rules to mean that duty/tax "ought to have been paid" only when prices are finalized or supplementary invoices are raised does **"violence to the provisions of the Act."**

3.Harmonizing Section 142(2)(a) of CGST Act 2017 with the Supreme Court's Ration in Steel Authority Case:

Taxpayers frequently misinterpret Section 142(2)(a)—which mandates that a supplementary invoice or debit note be *"deemed to have been issued in respect of an outward supply made under this Act"*—as creating a fresh charging event or shifting the liability date to the post-GST era. However, harmonizing this provision with the **binding ratio of *Steel Authority of India***, the deeming fiction under Section 142(2)(a) serves a purely procedural and administrative purpose. It provides the statutory gateway and mechanism for a registered taxpayer to report the differential transaction, issue a GST-compliant debit note, and discharge tax through the electronic portal. It does not rewrite economic history or alter the original time when the value accrued.

4.**Inescapable Incidence of Interest:**

Therefore, while Section 142(2)(a) bridges the procedural transition by allowing the payment of differential tax of **Rs. 54,44,190/-** via debit notes issued on **September 29, 2018** and **October 15, 2018**, carries forward the historical liability for interest. Because the differential tax relates back to the original clearance period, the mandatory interest under Section 50 attaches automatically.

5.Dismantling the Respondent's Section 39(7) and Section 34(4) Fallacy:

Respondent's Claim: The due date shifts to the 20th of the month following the *issuance* of the debit note.

Our Finding: Just as Rule 8 of Central Excise could not shift the accrual date, Section 39(7) and Section 34(4) are purely **procedural and administrative reporting mechanisms** for the electronic portal. They provide the gateway to report transactions and file GSTR-3B, but they do not rewrite economic history or alter the original time when the value accrued.

6. **Untenable Section 12 / Section 142(2)(a) "Fresh Tax Point" Theory:**

Respondent's Claim: Section 142(2)(a) creates a "deemed outward supply under this Act," making the liability born fresh on the date of the supplementary invoice.

Our Finding: The deeming fiction in Section 142(2)(a) is merely a transitional bridge allowing taxpayers to issue debit notes and discharge tax post-July 1, 2017. It is not a legal time-machinethat erases the time-value of money enjoyed by the assessee during the interim legacy-to-GST period. The enhanced value **relates back** to the original clearance period.

7. **Neutralizing the "Denied Provisional Assessment" Distinction**

Respondent's Claim: *Steel Authority* only applies to formal provisional assessments under the old regime; since their request was denied, the ratio is inapplicable to post-GST debit notes.

Our Finding: This is a distinction without a difference. The Supreme Court's ratio is grounded in the universal economic reality of **price variation clauses**, not the administrative label of "provisional assessment." Whether a price is subject to a contractual escalation clause or formal provisional assessment, an upward price revision is retrospective, and the tax was legally due from inception.

8. **Penalty under Section 122: and Bonafide Transition**

While the principal tax appropriation and the accompanying statutory interest are fully sustainable under the law, the imposition of penalty under Section 122 of the CGST Act, 2017 requires careful judicial scrutiny:

Nature of the Default: The differential tax liability did not arise from any suppression of facts, fraud, willful misstatement, or evasion of tax. Rather, it arose purely out of a contractual price escalation clause occurring during a complex legislative transition from the Central Excise regime to the GST regime.

Bonafide Interpretation of Transitional Law: The applicability of Section 142(2)(a) and the legal effect of supplementary invoices on pre-existing contracts involved intricate questions of statutory interpretation. The Respondent acted under a bonafide belief regarding the transitional mechanism.

Inapplicability of Penalty: Penalties under fiscal statutes are designed to punish deliberate infractions or contumacious conduct. In the absence of suppression or deliberate noncompliance —and given that the differential tax was voluntarily discharged upon finalization of prices—the imposition of penalty under Section 122 is unwarranted and legally unjustified. Accordingly, the quashing of penalty in OIA is legally sustainable.

VII. Conclusions

- **Setting Aside the OIA:** The findings and conclusions in the Order-in-Appeal (**OIA**) which set aside the Order-in-Original (**OIO**) regarding the non-sustainability of interest are hereby found to be legally flawed and are liable to be set aside.

- **Restoration of Interest Demand:** In light of the grounds raised by the Appellant against the OIA, the comprehensive rebuttal of the Respondent's counters, and the binding ratio of the Hon'ble Supreme Court in ***Steel Authority of India Ltd.*** **(2019)** (specifically paragraph 63, reaffirming *SKF India Ltd.* and *International Auto Ltd.*), the demand for interest amounting to **Rs. 13,85,623/-** under Section 50 of the CGST Act, 2017 as originally determined in the OIO, is **restored and upheld** as valid, mandatory, and fully enforceable.

- **Setting Aside of Penalty:** The penalty imposed upon the Respondent under Section 122 of the CGST Act, 2017 is liable to be **set aside** in view of the bonafide nature of the transitional dispute and the absence of any contumacious conduct or suppression.

Accordingly, we pass the following order:

ORDER

1. The order in OIA with respect to non-sustainability of demand of interest is set side.

2. Demand for interest amounting to **Rs. 13,85,623/-** under Section 50 of the CGST Act, 2017, as originally determined in OIO is upheld.

3. The ruling in OIA with regard to quashing of the penalty imposed under Sec 122 of the Act is upheld.

4. The appeal filed by the Appellant (Revenue) against the OIA is accordingly **partly allowed** to the extent of upholding the interest demand, while confirming the relief granted regarding the penalty.

Sudha Koka

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(Sudha Koka)

Srikanth Venkatraman

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(Srikanth Venkatraman)

Dated: 07.10.2026