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Cryptic Appellate Orders Cannot Stand: GSTAT Kolkata Enforces Reasoned Decisions Under Section 107(12)

The Goods and Services Tax Appellate Tribunal, Kolkata Bench (**"GSTAT"**) in ***Spandan Electrical v. Debabrata Paul, Deputy Commissioner, Srirampur & Ors. [Appeal No. APL/90/KLK/2026 dated October 09, 2026]*** set aside the order passed by the First Appellate Authority rejecting the appeal against a demand raised under Section 74(1) of the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**) on the ground that the order was cryptic and non-speaking, and held that the First Appellate Authority is mandated under Section 107(12) of the CGST Act to state the points for determination, the decision thereon and the reasons for such decision, failing which the order violates the principles of natural justice. Accordingly, the matter was remanded to the First Appellate Authority to hear the appeal afresh and pass a reasoned order after giving the taxpayer adequate opportunity to adduce evidence.

Facts:

M/s Spandan Electrical (**"the Appellant"**) is engaged in trading of electrical goods in Hooghly, West Bengal. An investigating team of the Revenue visited the business premises of the Appellant and, on scrutiny of the documents maintained there, alleged that the Appellant had concealed the record of its outward supplies to evade tax. The incriminating documents were seized and the Appellant was asked to appear with its books of accounts, bank statements and invoices for reconciliation, which it failed to do.

Consequently, a demand notice dated August 04, 2024 was issued under Section 74(1) of the CGST Act alleging suppression of the value of outward supply of goods worth Rs. 19,83,601/- pertaining to FY 2017-18. Tax of Rs. 3,57,048.18/- (CGST and SGST), interest of Rs. 4,30,678.93/- and penalty of Rs. 8,76,998/- was determined, and the Appellant was called upon either to pay the amount within 30 days or to show cause.

In reply, the Appellant contended that the demand was cryptic, non-speaking and arbitrary, with no foundational basis. It was submitted that the value of outward supplies alleged by the Revenue was actually received as advances from customers, against which no tax invoice was raised since no delivery of goods was made, and hence no GST was payable on such advances. The Appellant further contended that Section 74(1) of the CGST Act could not be invoked as there was no fraud, wilful misstatement or suppression of facts.

The Adjudicating Authority, vide order dated January 20, 2025, confirmed the demand. The Appellant's appeal under Section 107(1) of the CGST Act was dismissed by the First Appellate Authority vide order dated October 14, 2025 on the sole ground that, despite reasonable opportunity, the Appellant could not make out any defence by adducing documentary evidence. Aggrieved, the Appellant preferred an appeal before the GSTAT under Section 112(1) of the CGST Act.

Contentions of the Appellant: The First Appellate Authority did not consider any of the Appellant's submissions. The entries identified by the Revenue during reconciliation of the bank statements represented advance receipts from customers towards future supply of goods and were reflected as such in the books of accounts. As no supply of goods took place in FY 2017-18, no tax invoice was issued. The First Appellate Authority recorded no reason for disagreeing with this contention, and upheld the demand under Section 74(1) without examining whether there was any proof of fraud, wilful misstatement or suppression of facts, or of any taxable supply during FY 2017-18.

Contentions of the Revenue: The impugned order is well founded and does not call for any interference.

Issues:

- Whether the First Appellate Authority can reject an appeal against a demand raised under Section 74(1) of the CGST Act merely on the ground that the taxpayer failed to

produce documentary evidence, without stating the points for determination, without addressing the grounds raised by the taxpayer (including that the amounts were advance receipts and that there was no fraud, wilful misstatement or suppression of facts) and without recording any reasons, in violation of Section 107(12) of the CGST Act and the principles of natural justice?

Held:

The GSTAT, Kolkata Bench in ***Appeal No. APL/90/KLK/2026*** held as under:

- Observed that, Section 107(12) of the CGST Act mandates the First Appellate Authority to pass an order in writing which states the points for determination, the decision thereon and the reasons for such decision.
- Noted that, on a bare perusal of the impugned order, the First Appellate Authority had neither stated the points for determination nor recorded any reason as to how it arrived at its decision.
- Observed that, the First Appellate Authority should have passed a reasoned and speaking order after independently evaluating the facts, and the grounds raised by the Appellant in its defence should also have been addressed in the impugned order for rejecting the appeal.
- Noted that, there are a plethora of judicial pronouncements consistently holding that rejection of an appeal by a cryptic and non-speaking order without recording justifiable reasons violates the principles of natural justice.
- Held that, the First Appellate Authority failed to follow the mandate of Section 107(12) of the CGST Act as it recorded no reason touching the merits of the case, due to which the Appellant could not know why its appeal was dismissed; hence, the impugned order cannot be upheld.

- Directed that, the First Appellate Authority shall hear the appeal afresh and pass a reasoned order after providing adequate opportunity to the Appellant to adduce evidence in support of its case, and shall complete the exercise within six months from the date of communication of the order.

- Hence, the impugned order is set aside and the matter is remanded back to the First Appellate Authority.

Our Comments:

Section 107 of the CGST Act governs appeals to the First Appellate Authority, and sub-section (12) thereof prescribes how the appeal must be disposed of. It provides as under:

"(12) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision."

The requirement is a statutory embodiment of the settled principle that a quasi-judicial authority must record reasons for its conclusions. The Hon'ble Supreme Court in *Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan* [(2010) 9 SCC 496] held that reasons must be cogent, clear and succinct, and that a pretence of reasons or "rubber-stamp reasons" is not a valid decision-making process. An appeal is a continuation of the lis, and the First Appellate Authority is required to examine the facts and the law independently; it cannot merely fault the taxpayer for not producing further evidence without even looking at what is already on record and what has been argued in the grounds of appeal.

The demand in the present case was raised under Section 74(1) of the CGST Act, which can be invoked only where tax has not been paid, short paid or erroneously refunded, or input tax credit has been wrongly availed or utilised, by reason of fraud, wilful misstatement or suppression of facts. Explanation 2 to Section 74 defines "suppression" as non-declaration of facts or information which a taxable person is required to declare in the return, statement,

report or any other document furnished under the Act or the rules, or failure to furnish any information on being asked for, in writing, by the proper officer. Further, Section 75(6) of the CGST Act requires the proper officer to set out the relevant facts and the basis of his decision in the order. A non-speaking appellate order, which does not even examine whether the ingredients of Section 74 are made out, defeats this scheme at the very first appellate stage. It is also worth noting that Section 74 continues to govern the periods up to FY 2023-24, while Section 74A applies from FY 2024-25 onwards, however, the mandate of Section 107(12) remains the same irrespective of the provision under which the demand is raised.

Though the GSTAT has not gone into the merits, the defence of the Appellant deserves a note. Notification No. 66/2017-Central Tax dated November 15, 2017 exempts registered persons (other than those paying tax under the composition scheme) from payment of tax on advances received for supply of goods, and the tax becomes payable at the time of supply determined as per Section 12(2)(a) of the CGST Act. Therefore, where the entries represent bona fide advances for goods that were not supplied in the relevant year, the demand on the same may not sustain, subject to the period of receipt and to the Appellant being able to substantiate the same with books of accounts, customer-wise advance ledgers, bank reconciliation and confirmations. Since the First Appellate Authority rejected the appeal for want of documentary evidence, the Appellant must come prepared with such a reconciliation in the remand proceedings.

On the question of remedy, it may be noted that Section 107(11) of the CGST Act empowers the First Appellate Authority only to confirm, modify or annul the order appealed against and bars it from referring the case back to the adjudicating authority. The GSTAT, on the other hand, has been vested with the power under Section 113(1) of the CGST Act to confirm, modify or annul the order, or to refer the case back to the Appellate Authority, the Revisional Authority or the original adjudicating authority with directions for fresh adjudication after taking additional evidence, if necessary. It is in exercise of this power that the GSTAT restored the appeal to the First Appellate Authority.

Pari materia judgments: Giving a pari materia judgment, the Hon'ble Kerala High Court in *St. Antony Trading and Transport Pvt. Limited v. Joint Commissioner* [WP(C) No. 14743 of 2025 dated April 08, 2025] set aside the appellate order and remanded the matter for fresh adjudication on merits, observing that in the light of Section 107(12) of the CGST Act the Appellate Authority has to consider the matter on merits, and even where the appellant fails to appear, it has to pass an order after determining the points for consideration.

Similarly, the Hon'ble Calcutta High Court in *Fratelli Vineyards Ltd. v. State of West Bengal* [WPA No. 24054 of 2025 dated February 23, 2026] set aside an appellate order which, after dealing with each ground of demand, merely repeated that no further explanation or documents were furnished at the appeal stage. The Court observed that the Appellate Authority had paraphrased the adjudicating authority's findings, glossed over the explanations given in the appeal and did not consider the documents already on record, and held that it was the duty of the Appellate Authority to examine the explanations, assess their worth and give reasons if it rejects them. The matter was remanded for fresh consideration on merits.

The GSTAT, Raipur Bench in *Cheema Local Carrier and Construction v. Commissioner State GST* [APL 31 (RPR) of 2026 dated September 24, 2026] also dealt with identical, one-line appellate orders which did not deal with seven specific grounds and about 70 judicial citations relied upon by the appellants. Relying on *Kranti Associates* (supra), the Tribunal held that such an order is not a reasoned and speaking order and set it aside.

Contrary / distinguishing view on remand: While the Tribunal in *Spandan Electrical* confined the remand to the First Appellate Authority, in *Cheema Local Carrier and Construction* (supra) the GSTAT Raipur Bench went a step further and remitted the matters to the original adjudicating authorities for fresh adjudication, since the orders-in-original were also passed ex parte and the appellants had raised objections regarding the show cause notice, the relied-upon documents and the personal hearing under Section 75(4) of the CGST Act. The two rulings thus show that the scope of remand will depend on whether the infirmity is limited to the

appellate order or goes to the root of the original adjudication. Further, the First Appellate Authority itself has no such liberty, and the Hon'ble Allahabad High Court in *Anand and Anand (Law Firm) v. Principal Commissioner, Central Goods and Services Tax* [dated February 16, 2026] held that Section 107(11) of the CGST Act expressly bars a remand to the adjudicating authority, set aside the remand portion of the appellate orders and directed the Appellate Authority to decide the appeals afresh on merits within two months.

Takeaway: Taxpayers facing a cryptic or non-speaking first appellate order should challenge it before the GSTAT under Section 112 of the CGST Act within the limitation period, specifically taking the ground of non-compliance with Section 107(12) of the CGST Act. At the same time, a remand is not the end of the dispute. The grounds of appeal should be drafted issue-wise, with a list of documents already furnished before the adjudicating authority, so that any failure of the Appellate Authority to consider them becomes evident from the record, and a complete evidentiary file should be ready for the fresh hearing.

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