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No Fresh Pre-Deposit for GSTAT Appeal When Earlier Deposit Already Covers 20% of Disputed Tax

The Goods and Services Tax Appellate Tribunal (**"GSTAT"**), Chennai Bench in ***LTM Limited v. Commissioner of GST & Central Excise [Filing No. 2626059101000236 dated October 06, 2026]*** cured the registry defect relating to pre-deposit and directed admission of the appeal on the ground that the amount of Rs. 32,94,735 already deposited at the first appellate stage exceeded the cumulative pre-deposit of Rs. 10,78,084 required under Sections 107(6) and 112(8) of the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**) on the tax surviving in dispute, and held that a fresh 10% payment cannot be insisted upon merely because Section 112(8)(b) uses the words "in addition to the amount paid under sub-section (6) of section 107".

Facts:

- LTM Limited (**"the Appellant"**) was served with Order-in-Original No. 02/2021-GST-JC dated October 29, 2021 confirming a tax demand of Rs. 3,29,47,353 along with interest and penalty.
- The Appellant deposited Rs. 32,94,735 (being 10% of the tax in dispute) through FORM GST DRC-03 dated January 28, 2022 and filed the first appeal under Section 107 of the CGST Act.
- By Order-in-Appeal No. 16/2023 dated March 31, 2023, the First Appellate Authority (**"FAA"**) remanded the demand of Rs. 2,75,56,933 and upheld the demand of Rs. 53,90,420 (transitional credit of Rs. 17,965 and input tax credit of Rs. 53,72,455). The remanded demand, since reduced to Rs. 17,43,997 vide de novo order dated August 13, 2024, is the subject of separate proceedings.
- The Appellant filed an appeal before the GSTAT confined to the upheld demand of Rs. 53,90,420. The Registry raised a defect on pre-deposit under Section 112(8) and, by Defect Notice dated August 06, 2026, called for the Electronic Liability Register reflecting adjustment of the pre-deposit against the relevant demand ID.

Contentions:

- **Appellant:** The aggregate pre-deposit required under Sections 107(6) and 112(8) on the disputed tax of Rs. 53,90,420 is only Rs. 10,78,084, against which Rs. 32,94,735 already stands deposited. No demand ID/FORM GST APL-04 had been generated on the portal for the impugned order, making an adjustment through FORM GST DRC-03A impossible. Reliance was placed on *Manoranjan Dash* (GSTAT, Cuttack), *Ashirwad Food Industries* (Jharkhand High Court), CBIC Circular No. 224/18/2024-GST and the recommendations of the 53rd GST Council.
- **Revenue:** While confirming the deposit of Rs. 32,94,735 (FORM GST DRC-04 issued), it was contended that Section 112(8)(b) requires payment of 10% of the remaining tax in dispute "in addition to" the amount paid under Section 107(6), and hence Rs. 5,39,042 must be separately paid notwithstanding that the earlier deposit is in excess.

Issues:

1. Whether, where the amount deposited under Section 107(6) of the CGST Act exceeds the cumulative pre-deposit under Sections 107(6) and 112(8) computed on the tax surviving in dispute before the Tribunal, a further deposit of 10% is required for maintaining the appeal before the GSTAT?
2. Whether an amount already lying with the Revenue against the same demand can be reckoned towards the pre-deposit under Section 112(8)(b) without a fresh challan being paid after the first appellate order?

Held:

The GSTAT, Chennai Bench in ***Filing No. 2626059101000236*** held as under:

- **Observed that,** the measure of pre-deposit under Section 112(8)(b) is the tax in dispute "arising from the said order" and "in relation to which the appeal has been filed", i.e. Rs. 53,90,420 and not the much larger original demand; the remanded demand is not before the Tribunal.

- **Observed that,** the words "in addition to the amount paid under sub-section (6) of section 107" fix a cumulative quantum of 20% of the tax in dispute (10% at the first appellate stage plus a further 10% at the Tribunal stage), and the opening words "has paid" only require that the requisite amount stands paid on the date of filing. The Act neither requires the further 10% to be paid by a fresh challan after the first appellate order nor bars reckoning an amount already lying with the Revenue against the same demand.
- **Noted that,** even on the Revenue's reading of "in addition to", the requirement is met: out of Rs. 32,94,735 already deposited, Rs. 5,39,042 is attributable to the first appeal under Section 107(6)(b) and a further Rs. 5,39,042 to the present appeal under Section 112(8)(b), together making the aggregate of Rs. 10,78,084.
- **Observed that,** pre-deposit is not a separate levy but a portion of the disputed tax itself, adjusted against the demand if the appellant fails and refunded with interest under Section 115 read with Section 56 if the appellant succeeds. Requiring the Revenue to first refund the excess with interest and the Appellant to then re-deposit out of the very same money is a circular exercise that serves no revenue purpose, and a construction leading to such an anomalous result must be avoided. Section 112(8) being a procedural condition for access to the appellate remedy and not a charging provision, a literal reading does not require a meaningless double payment.
- **Noted that,** the view is supported by *Ashirwad Food Industries v. Union of India* (Jharkhand High Court), *Manoranjan Dash v. Commissioner, CT & GST, Odisha* (GSTAT, Cuttack – affirmed on the Revenue's review application) and *MMTC-PAMP India (P.) Ltd. v. Deputy Commissioner* (Madras High Court), and that no contrary decision was cited by the Revenue.
- **Noted that,** para 7.2 and para 8.2 of CBIC Circular No. 224/18/2024-GST dated July 11, 2024 permit amounts paid through the Electronic Liability Register or FORM GST DRC-03 to be adjusted towards pre-deposit under Sections 107 and 112, and such

circulars bind the departmental officers. The Revenue's own verification report dated September 07, 2026 proved the deposit.

- **Noted that,** the Finance (No. 2) Act, 2024 reduced the pre-deposit under Section 112(8) from 20% to 10% and the cap from Rs. 50 crore to Rs. 20 crore to ease the working-capital burden of appellants, and insisting on a fresh deposit when three times the required amount already lies with the Revenue would defeat this object.
- **Held that,** the pre-deposit requirement under Section 112(8) of the CGST Act stands satisfied, no further pre-deposit is required and the defect stands cured.
- **Directed that,** (i) out of Rs. 32,94,735, an amount of Rs. 10,78,084 shall stand appropriated for this appeal and shall not be reckoned for any other proceeding (the deposits of Rs. 20,40,200 dated June 12, 2026 relating to the separate appeal against Order-in-Appeal No. 332/2025 and Rs. 1,74,399 relating to the remanded demand were not reckoned); (ii) the jurisdictional proper officer shall map Rs. 10,78,084 against the demand in the Electronic Liability Register as and when the demand ID is generated and the Appellant shall file FORM GST DRC-03A in terms of the Circular; (iii) the FAA shall electronically generate FORM GST APL-04 within one month, which the Revenue's Authorised Representative shall upload on the GSTAT portal immediately upon generation; and (iv) the Appellant shall upload an undertaking that the 10% pre-deposit already made shall not be utilised or adjusted against any other demand.
- Hence, the Registry is directed to admit the appeal after compliance of the above directions.

Our Comments:

Statutory scheme. Section 107(6) of the CGST Act makes payment of the admitted amount in full and 10% of the remaining amount of tax in dispute (subject to the prescribed cap) a pre-condition for filing an appeal before the FAA. Section 112(8) similarly provides that no appeal shall be filed before the GSTAT unless the appellant has paid the admitted amount in full and a

sum equal to 10% of the remaining amount of tax in dispute, "in addition to the amount paid under sub-section (6) of section 107", subject to a maximum of Rs. 20 crore. Before the Finance (No. 2) Act, 2024, the Tribunal-stage deposit was 20% with a cap of Rs. 50 crore. The cumulative deposit across both stages is thus 20% of the tax in dispute, and a successful appellant is entitled to refund of the pre-deposit with interest under Section 115 read with Section 56.

The controversy. The Revenue's stand has been that the words "in addition to" create a separate, fresh liability of 10% at the Tribunal stage, irrespective of the amount lying in the Electronic Liability Register. The difficulty arises most acutely where the first-stage deposit was made against a large original demand which was thereafter substantially reduced or remanded by the FAA, so that the earlier deposit already exceeds 20% of the surviving demand. The Bench has rightly held that the yardstick is the tax in dispute in the appeal being filed and that the earlier deposit, being part of the disputed tax and not a separate levy, must be given credit. The ruling also underlines that Section 112(8) is a procedural gateway to the appellate remedy, and must receive a purposive construction.

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Illustration of the computation adopted by the Bench:

Sl.	Particulars	Basis	Amount (Rs.)
(a)	Tax in dispute before GSTAT (upheld by Order-in-Appeal No. 16/2023)	—	53,90,420
(b)	Pre-deposit attributable to first appeal – Section 107(6)(b)	10% of (a)	5,39,042
(c)	Further pre-deposit for GSTAT appeal – Section 112(8)(b)	10% of (a)	5,39,042
(d)	**Aggregate pre-deposit required [(b) + (c)]**	**20% of (a)**	**10,78,084**
(e)	Amount actually deposited (DRC-03 dated January 28, 2022)	Verified by Revenue	32,94,735

CBIC Circular No. 224/18/2024-GST dated July 11, 2024. The Circular, issued under Section 168(1) of the CGST Act, clarifies the mechanism for adjustment of amounts paid through the Electronic Liability Register or FORM GST DRC-03 (and adjusted through FORM GST DRC-03A) towards pre-deposit under Sections 107 and 112. The Bench has used it to show that the Board itself treats the stage and mode of payment as immaterial so long as the amount stands deposited against the disputed demand.

Pari materia provisions. The erstwhile indirect tax laws contained a similar pre-deposit regime in Section 35F of the Central Excise Act, 1944 and Section 129E of the Customs Act, 1962. CBEC Circular No. 984/08/2014-CX dated September 16, 2014 recognised that amounts paid during investigation or audit, before filing of the appeal, count towards the mandatory pre-deposit. The Bench drew on this position to hold that GST law, which was aligned with the erstwhile regime by the 2024 amendment, cannot be read more harshly.

Related judgments.

- *Ashirwad Food Industries v. Union of India* [2026 (2) TMI 596 (DB) dated February 09, 2026] – the Hon'ble Jharkhand High Court held that where Rs. 23.85 lakh was deposited at the first stage against a demand of about Rs. 2.38 crore, later reduced to about Rs. 40 lakh, there was no question of making any further pre-deposit before the Tribunal.
- *Manoranjan Dash v. Commissioner, CT & GST, Odisha* [2026 (7) TMI 829 dated July 08, 2026] – the GSTAT, Cuttack Bench held that no further pre-deposit is required. On the Revenue's application seeking reconsideration of the expression "in addition to", the Bench affirmed its view by order dated September 21, 2026 [2026 (9) TMI 1651], holding that pre-deposit is not a payment towards any separate or independent liability and that a literal insistence would give an anomalous or unworkable result.
- *MMTC-PAMP India (P.) Ltd. v. Deputy Commissioner* [[2024] 164 taxmann.com 37] – the Hon'ble Madras High Court computed the Section 112(8) requirement cumulatively, giving credit for amounts already remitted and directing payment only of the shortfall.

Contrary view. No decision taking a contrary view was cited by the Revenue before the Bench. The Revenue's contention rests on a literal reading of Section 112(8)(b) and on the settled principle that the right of appeal is a creature of statute which can be exercised only on fulfilment of the conditions attached to it, pre-deposit being one such condition (*Vijay Prakash D. Mehta v. Collector of Customs (Preventive)* [(1988) 4 SCC 402]). However, that principle only requires the condition to be satisfied; it does not answer whether an amount already lying with the Revenue against the same demand satisfies it. Where the deposit actually falls short of 20% of the surviving tax, the shortfall must still be paid, as in *MMTC-PAMP*.

Practical takeaways. (i) The pre-deposit is to be tested against the tax surviving in dispute in the appeal and not the original demand; (ii) keep the DRC-03/DRC-04 and Electronic Liability Register records ready to answer a Registry defect notice; (iii) ensure that the FAA generates FORM GST APL-04 so that a demand ID is available for adjustment through FORM GST DRC-03A; (iv) where the same deposit could serve several proceedings, earmark it carefully, as the Bench has directed that the amount appropriated to one appeal cannot be reckoned again elsewhere, and an undertaking to that effect is required; and (v) Revenue may yet carry the issue further, but this order, read with the Odisha and Jharkhand rulings and the Circular, gives taxpayers a strong footing against a demand for a second 10%.

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