

**BEFORE THE HON'BLE GOODS AND SERVICE TAX APPELLATE TRIBUNAL, DELHI
BENCH, NEW DELHI**

FORM GST APL – 05

[Under Rule 110(1) of Central Goods & Service Tax Rules 2017]

Appeal Number ____/2025

IN THE MATTER OF:

**M/s Ankit Manufactures
GSTIN No.: 1234567890
Address: Dilshad Garden
New Delhi, Delhi, 110095**

.... Appellant

VERSUS

**The Joint Commissioner (Appeal),
Zone-IV, Delhi Goods and service tax
Department of Trade and Taxes, Delhi**

.... Respondent

Particulars of order against which the Appeal is made:

- i. OIO no.**
- ii. Dated: 30.01.2026**
- iii. Passed by: The Joint Commissioner (Appeals),
Zone-VII, Delhi Goods and service tax
Department of Trade and Taxes, Delhi**

M/s ANKIT MANUFACTURES

DILSHAD GARDEN, Delhi – 110095, GSTIN: 1234567890

The Registrar
The Hon'ble GST Tribunal,
Delhi Bench, Delhi

Sub: Submission of Appeal under Section 112(1) of the CGST Act, 2017, In the matter of M/S ANKIT MANUFACTURES, APPEAL NO. OF 2026

Ref: Order No. 12345 dated July 30,01,2026, Passed by the Office of Joint Commissioner (Appeals), Zone-VII, GST Bhavan, DGST Department, New Delhi

Respected Sir,

With reference to the above, we submit herewith an appeal in Form GST APL-05 in three sets. The appeal is within the limitation period and there is no undisputed amount unpaid. The details of the document's beings submitted are mentioned in the index on the next page.

Please acknowledge the receipt.
Thanking You,
Yours faithfully

For M/s ANKIT MANUFACTURES
Mr. ABC

(Proprietor)

Place: Delhi

Date: 17TH Apr, 2026

BEFORE THE HON'BLE GOODS AND SERVICE TAX APPELLATE TRIBUNAL, DELHI

BENCH, NEW DELHI

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Form GST APL – 02

¹[[See Rules 108(3), 109(2), 110(1) and 111(1)]]

Acknowledgment for submission of appeal

Name: M/s Ankit Manufacturer GSTIN: 1234567890 Date: 17th Apr 2026

Your appeal has been successfully filed against ARN - 07220202020

1. Reference Number- 12345
2. Date of filing- 17th Apr 2026
3. Time of filing- 10:12 AM
4. Place of filing- Delhi
5. Name of the person filing the appeal- M/s Ankit Manufacturers
6. Amount of pre-deposit- 460,000/-
7. Date of acceptance/rejection of appeal- 17th Apr 2026
8. Date of appearance Date: 27th Apr 2026 Time: 11:30 AM
9. Court Number/ Bench Court: TRIBUNAL Bench: NEW DELHI

Place: Delhi

Date: 17th Apr 2026

Signature>

Name:ABC

Designation: Registrar

On behalf of Appellate Tribunal

Challan Payment of Rs 23,000/-

ANNEXURE – 'A1'

BEFORE THE HON'BLE GOODS AND SERVICE TAX APPELLATE TRIBUNAL,

DELHI BENCH, NEW DELHI

In the Matter of : Ankit Manufactures

Period of Dispute : Apr 2024 to March 2025

STATEMENT OF FACTS

Hon'ble President and his companion members, your humble Appellant respectfully begs to submit statement of facts as under:

1.1 The Appellant, M/s Ankit Manufactures (hereinafter referred to as *the Appellant*"), is registered under GST in the state of Delhi vide GSTIN 1234567890. The Appellant is engaged in manufacturing of hydraulic pumps.

1.2 For the FY 2024-25, the returns filed by the Appellant were scrutinised by the Proper Officer, who thereafter issued a Show Cause Notice (Annexure A6) Dated 12th Oct 2025. The notice alleged that the appellant has taken Ineligible input tax credit of Rs. 23,00,000 over purchase of Cement and Steel, Since the appellant is the manufacturer of hydraulic pumps.

1.3 The Proper Officer alleged that it seems that purchase of steel and cement have been used in construction of immovable property that is blocked under section 17(5) of the DGST Act. The appellant duly filed a reply dated 30.10.2025 that we have not availed any wrongful input tax credit as alleged in your show cause notice. We have constructed a shed for plant and machinery and steel and cement was used to construct 6 feet foundation walls. The shed

is nut and screws based and can be dismantled any time. Hence, it is not proper to say that we constructed any immovable property for which ITC is blocked under section 17(5) of the CGST Act.

A copy of the said notice and reply is appended as Annexure A6.

1.4 The proper officer is not satisfied with the reply filed by the Appellant arguing that Under the CGST Act, input tax credit (ITC) is generally not available on steel, cement, and other materials used for constructing a shed or building, even if it is meant for plant and machinery and passed the Aggrieved by the impugned adjudication order, the Appellant preferred an appeal under Section 107 of the DGST Act, 2017 before the Hon'ble First Appellate Authority, which was duly filed on 15.12.2025 setting out detailed grounds of challenge. However, the appeal was dismissed, and the impugned order was upheld by the Appellate Authority by reiterating the same reasoning as adopted by the Adjudicating Authority. A copy of the First Appellate Order is appended as *Annexure-A4*.

1.5 Thus, the amount charged under the order along with interest and penalty, forms part of the appellate proceedings.

It is therefore, prayed that the appeal be accepted and suitable relief be allowed.

For Ankit Manufactures

Authorised Signatory

ANNEXURE – 'A2'

**BEFORE THE HON'BLE GOODS AND SERVICE TAX APPELLATE TRIBUNAL,
DELHI BENCH, NEW DELHI**

In the Matter of : Ankit Manufacturers

Period of Dispute : April 2024 to March 2025

GROUND NO. 1

The following grounds of appeal are taken without prejudice to one another. The Hon'ble Appellant requests that each ground be considered independently on its merits.

GROUND NO. 1: Non-Examination of the True Nature of the Asset.

- 1.1. That the learned authority has erred in examination of the nature of the assets, as keeping mindset that any steel used for shed structure, Cement for shed flooring/walls/roof, Civil construction of shed, any building-like structure, even if used to house machinery cannot be allowed without giving effect to the nature of the assets. It is an unsustainable approach, examination of the exact nature of the assets is essential to identify the eligibility or ineligibility.
- 1.2. To identify the eligibility or in eligibility the role of the shed and walls in the working of the machine, and the photographs and other supporting material that show the functional nexus between the structure and the machinery is essential.

1.3. Instead of conducted this exercise the authority has rejected the input tax credit this approach ignores the actual use, purpose and character of the structure in the present case.

1.4. For this reason also, the impugned orders are unsustainable and deserve to be set aside.

GROUND NO. 2: Failure to apply the functionality test.

2.1. That the learned authority has not made any examination of the role played by the shed, the concrete wall/base, the machinery installation, the need for vibration control, the functional support provided by the structure, or the manner in which the structure contributes to the effective working of the machinery.

2.2. In Safari Retreats (P.) Ltd. v. Chief Commissioner of CGST, the Hon'ble Supreme Court held that the question whether a building or structure can qualify as a plant for section 17(5)(d) is a factual issue and has to be determined by applying the functionality test in each case on its own facts. The Appellate Authority failed to undertake that exercise altogether.

2.3. That the present case, no such functionality test was applied at all. The authorities did not examine the role played by the shed, the 6-foot walls, and the concreted base in the operation of the machinery. The denial of credit, therefore, rests on a legal misdirection and deserves to be set aside.

GROUND NO. 3: Structure created for the better functioning of the machinery instead of separate civil structure.

3.1. The shed and the civil structure was created as per the machine installation requirement and not for the separate use of the civil structure, the 6 feet wall and the shed was installed for the better efficiency and the controlling the vibration etc and to improve stability of the machinery so that it can work in a effective manner. A structure created solely to make machinery functional and durable cannot be tested in the same manner as an ordinary building or general civil construction.

GROUND NO. 4: The shed and the civil structure is not an immovable property.

4.1. Supreme Court after reviewing past precedents rendered in the context of what would constitute immovable property, identified the following precepts which would govern, the summarise principals retrated in the **Bharti Airtel Ltd. v. Commissioner, CGST Appeals-1, Delhi** are as follows with comparison of our case in bracket:-

1. **Nature of annexation:** This test ascertains how firmly a property is attached to the earth. If the property is so attached that it cannot be removed or relocated without causing damage to it, it is an indication that it is immovable.

(Where as in our case the shed is placed by using the nuts and bolts., that is not annexed like tree etc.)

2. **Object of annexation :** If the attachment is for the permanent beneficial enjoyment of the land, the property is to be classified as immovable. Conversely, if the attachment is merely to facilitate the use of the item itself, it is to be treated as movable, even if the attachment is to an immovable property.

(Where as in our case the construction is placed for the better effective functioning of the machinery (as explained in the para in the Ground 2 above))

3. **Intendment of the parties:** The intention behind the attachment, whether express or implied, can be determinative of the nature of the property. If the parties intend

that the property in issue is for permanent addition to the immovable property, it will be treated as immovable. If the attachment is not meant to be permanent, it indicates that it is movable.

(Where as in our case the shed is placed by using the nuts and bolts., that is not placed with the intention to permanent addition and it can be detached whenever required.)

4. **Functionality Test:** If the article is fixed to the ground to enhance the operational efficacy of the article and for making it stable and wobble free, it is an indication that such fixation is for the benefit of the article, such the property is movable.

(as explained in the para in the Ground 2 above)

5. **Permanency Test:** If the property can be dismantled and relocated without any damage, the attachment cannot be said to be permanent but temporary and it can be considered to be movable.

(In our case the shed can be easily dismantled using the nut bolt along with the machinery and can be relocated without as such any damage.)

6. **Marketability Test:** If the property, even if attached to the earth or to an immovable property, can be removed and sold in the market, it can be said to be movable."

(In our case the shed can be easily sold as such without any modification.)

Further in the Bharti Airtel judgment (as supra), Court observed, the extract are as follows..

...“Applying the above tests to the case at hand, we have no difficulty in holding that the manufacture of the plants in question do not constitute annexation hence cannot be termed as immovable property for the following reasons:

- (i) The plants in question are not per se immovable property.*
- (ii) Such plants cannot be said to be “attached to the earth” within the meaning of that expression as defined in Section 3 of the Transfer of Property Act.*
- (iii) The fixing of the plants to a foundation is meant only to give stability to the plant and keep its operation vibration free.*

(iv) *The setting up of the plant itself is not intended to be permanent at a given place. The plant can be moved and is indeed moved after the road construction or repair project for which it is set up is completed.”...*

Therefore as per the judgment and explained above that the all the test is giving result that the construction in actual is not an immovable assets that means the authority has not appreciated the facts and issued the order which is vague in nature and need to be set aside in toto.

ANNEXURE – 'A3'

BEFORE THE HON'BLE GOODS AND SERVICE TAX APPELLATE TRIBUNAL,
DELHI BENCH, NEW DELHI

In the Matter of : M/s Ankit Manufactures

Period of Dispute : April 2024 to March 2025

PRAYER

May it please the Hon'ble Tribunal,

Reference the facts of the case, the tribunal respectfully submit the following prayers;

- To kindly allow the appeal and set aside the order passed by the Joint commissioner (Appeal).
- To kindly **hold and declare** that it necessary for construction of shed for Running of Machine and also it is fixed with Nuts and bolts and can be dismantle any time. Thus, is not consider as **immovable property** within the meaning of Section 2(119) of the CGST Act, 2017.
- To Kindly wave off the demand along with interest and penalty
- To kindly pass any other order or direction that is deemed just and proper in the facts and circumstances of the case, in the interest of justice

It is therefore humbly prayed that the appeal petition may kindly be allowed in toto or as your honor may deem fit in the interest of justice and equity.

For Ankit Manufactures

Authorised Signatory