

IN THE GOODS AND SERVICES TAX APPELLATE
(MOOT) TRIBUNAL, DELHI AT NEW DELHI

APPEAL No.:/2025

In Re:

M/S REMESH KUMAR & CO.
49, NARAINA
NEW DELHI-110025

... APPELLANT

VERSUS

JOINT COMMISISONER (APPEAL),
ZONE-IV, DGST, DELHI & ANR.

.... RESPONDENTS

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PLACE: NEW DELHI
DATED: 18.04.2026

sd/-
(RAMESH KUMAR)
APPELLANT
THROUGH
Sd/-
(A.K. BABBAR)
COUNSEL

APL-02

ACKNOWLEDGMENT OF SUBMISSION OF APPEAL

FORM GST APL – 05*[See rule 110(1)]***Appeal to the Appellate Tribunal**

1. GSTIN/ Temporary ID /UIN - _____
2. Name of the appellant - RAMESH KUMAR AND CO.
3. Address of the appellant – 49, NARAINA, NEW DELHI
4. Order appealed against- Number- _____ Date-26.11.2025
5. Name and Address of the Authority passing the order appealed against - JOINT COMMISSIONER, APPEAL-IV, DELHI GOODS AND SERVICE TAX ACT
6. Date of communication of the order appealed against - 26.11.2025
7. Name of the representative - RAMESH KUMAR
8. Details of the case under dispute:
 - (i) Brief issue of the case under dispute AS PER ANNEXURE “A” SEPARATELY ATTACHED.
 - (ii) Description and classification of goods/ services in dispute NIL
 - (iii) Period of dispute F/Y 2022-2023
 - (iv) Amount under dispute:

Description	Central tax	State/ UT tax	Integrated tax	Cess
a) Tax/ Cess	3,75,75,000			
b) Interest	1,00,00,000			
c) Penalty				
d) Fees				
e) Other charges				

- (v) Market value of seized goods - **NA**
9. Whether the appellant wishes to be heard in person? **YES**
10. Statement of facts **AS PER ANNEXURE "A" SEPARATELY ATTACHED.**
11. Grounds of appeal **AS PER ANNEXURE "A" SEPARATELY ATTACHED.**
12. Prayer **TO QUASH / SET ASIDE THE ORDER-IN-APPEAL AND ORDER-IN-ORIGINAL.**
13. Details of demand created, disputed and admitted

Particulars of demand	Particulars	Central tax	State/UT tax	Integrated tax	Cess	Total amount	
Amount demanded / rejected >, if any (A)	a) Tax/Cess		3,75,75,000/-			3,75,75,000	4,75,75,000
	b) Interest		1,00,00,000/-			1,00,00,000	
	c) Penalty					< total >	
	d) Fees					<total >	
	e)					<	
	Other charges					total >	
Amount under dispute (B)	a) Tax/Cess		3,75,75,000/-			3,75,75,000	4,75,75,000
	b) Interest		1,00,00,000/-			1,00,00,000	

		c) Penalty				< total >	
		d) Fees				< total >	
		e) Other charges				< total >	
	Amount admitted (C)	a) Tax/ Cess				< total >	< total >
		b) Interest				< total >	
		c) Penalty				< total >	
		d) Fees				< total >	
		e) Other charges				< total >	

14. Details of payment of admitted amount and pre-deposit:

(a) Details of amount payable :

Particulars			Central tax	State/UT tax	Integrated tax	Cess	Total amount	
	a) Admitted amount	Tax/ Cess	NIL	NIL	NIL	NIL	NIL	NIL
		Interest					< NIL	
		Penalty					<	
							total >	

		Fees					< total >
		Other charges					< total >
	b) Pre-deposit [20% of disputed tax / cess but not exceeding Rs.50 crore each in respect of CGST, SGST or CESS or not exceeding Rs.100 crore in respect of IGST and Rs.50 crore in respect of cess	Tax/ Cess					

(b) Details of payment of admitted amount and [pre-deposit of 20% of the disputed tax and CESS but not exceeding Rs. 50 crore each in respect of CGST, SGST or CESS or not exceeding Rs.100 crore in respect of IGST and Rs. 50 crore in respect of CESS

Sr. No.	Description	Tax payable	Paid through Cash/ Credit Ledger	Debit entry no.	Amount of tax paid			
					Integrated tax	Central tax	State/ UT tax	CESS
1	2	3	4	5	6	7	8	9
	Integrated tax		Cash Ledger					

1.			Credit Ledger						
2.	Central tax		Cash Ledger						
			Credit Ledger						
3.	State/UT tax		Cash Ledger						
			Credit Ledger						
4.	CESS		Cash Ledger						
			Credit Ledger						

(c) Interest, penalty, late fee and NIL
any other amount payable and
paid:

Sr. No.	Description	Amount payable				Debit entry no.	Amount paid			
		Integrated tax	Central tax	State/UT tax	CESS		Integrated tax	Central tax	State/UT tax	CESS
1	2	3	4	5	6	7	8	9	10	11
1.	Interest	NIL					NIL			
2.	Penalty									
3.	Late fee									
4.	Others (specify)									

15. Place of supply wise details of the integrated tax paid (admitted amount only) mentioned in the Table in sub-clause (a) of clause 14 (item (a)), if any

Place of Supply (Name of State /UT)	Demand	Tax	Interest	Penalty	Other	Total
1	2	3	4	5	6	7

	Admitted amount [in the Table in sub-clause (a) of clause 14 (item (a))]					

Verification

I, RAMESH KUMAR, hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Place: NEW DELHI

Date: 18.04.2026

Signature: sd/-

Name of Applicant: RAMESH KUMAR

Designation / Status: PROP.

IN THE GOODS AND SERVICES TAX APPELLATE
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BRIEF SYNOPSIS AND LIST OF DATE AND EVENTS

That the challenge in this appeal is to the impugned order dated 26.11.2025 passed by 1st Appellate Authority, Zone-IV, DGST Delhi under section 107(11) of the DGST Act, 2017 Delhi wherein adjudication order U/s 74 of the DGST Act in respect of Financial Year 2022-23 was under challenged and the appeal had been dismissed in limine being time barred, as well as there has been the non-compliance of pre-deposit of 10% of the amount in dispute U/s 107 (6) of the DGST Act.

The necessary List of date and events is as under: -

Date	Particulars
06.12.2024	Adjudication Authority passed an Ex-parte Assessment Order in respect of F/Y 2022-2023 under DGST Act exparte, without service of any notice at all and without

	giving SIB. Documents. The Ld. Assessing Authority created a demand of Rs.4,75,75,000/- which consist of Tax Rs.3,75,75,000/- and Interest Rs.1,00,00,000/-.
06.01.2025	Petitioner filed Civil Writ Petition No. 1211/2025 before Hon'ble High Court of Delhi challenging adjudication order dated 06.12.2024 on the ground of violation of principles of natural justice i.e. without service of any Notice at all and without providing SIB documents.
15.01.2025	Hon'ble High Court of Delhi agreeing with petitioner remanded the matter back to Adjudicating Authority with direction to provide / supply of copy of S.I.B. documents and take Petitioner reply on record and pass a reasoned order.
26.02.2025	Appellant appeared before Adjudicating Authority filed reply and Adjudicating Authority after considering the reply passed an adjudication order. Confirming and reiterating the demand, earlier raised, of Rs.4,75,75,000/- (Rs.3,75,75,000/- tax and Rs.1,00,00,000/- interest). This order was served on petitioner.
30.05.2025	Still aggrieved petitioner filed Appeal manually before First Appellate Authority.

03.06.2025	On First hearing of appeal fixed by Appellate Authority none attended the proceeding from petitioner side on 03.06.2025.
11.06.2025	Appellate Authority served Another notice for 11.06.2025. On 11.06.2025 Counsel of Petitioner Mr. K.K. Sharma Adv. appeared and pleaded that whole order is concoction of the mind of the Adjudicating Authority, wherein huge demand was created. But First Appellate Authority still further adjourned the matter for 16.06.2025.
16.06.2025	On 16.06.2025 Counsel filed Written Submission and matter was again adjourned to 30.06.2025.
30.06.2025	<p>Nobody appeared on 30.06.2025.</p> <p>The Case was taken up and proceeded exparte by First Appellate Authority dismissing the appeal of Petitioner on the reasoning: -</p> <p>(A) Appeal is time barred and there is non-compliance of pre-deposit amount as per Section 107(6) of the Act. Being a Statutory Authority has no power to condone delay in filing Appeal. As such appeal was dismissed being time barred. However it had also been recorded no application for condonation of delay having filed.</p>

01.07.2026	<p>(B)No compliance of Sec. 107 (6) of the CGST Act had been made by petitioner i.e. depositing a sum equal to 10% of the remaining amount of tax in dispute arising from said order nor any application for waiver filed.</p> <p>(C) Sec. 14 of the Limitation Act of the Limitation Act was pleaded to be invoked, petitioner placed reliance on the judicial guidelines laid down in the case of M.P. Steel Corporation Vs. Commissioner Central Excise (2025 (7 SCC) -58.</p> <p>The appeal filed was rejected Appellate Authority.</p>
04.07.2025	Another WPC. Filed before Hon'ble High Court of Delhi against above orders rejecting the appeal.
09.07.2025	Hon'ble High Court of Delhi directed Appellate Authority to hear appeal and consider the plea of condonation of delay in light of M.P. Steel Corporation Vs. Commissioner Central Excise (2015) 7 SCC -58
26.08.2025	Instead of appearing, before Appellate Authority, Appellant moved Hon'ble S.C. in SLP.
28.08.2025	Petitioner had filed SLP, praying condonation of delay and pleaded this needs to be considered in view of Supreme Court judgment in the case of M.P. Steel Corporation Vs.

	<p>Commissioner Central Excise (2015 (7 SCC) -58. Hon'ble Supreme Court issued direction to Appellate Authority to dispose of the appeal including condonation of delay appellant if moved and pass a reasoned and speaking order. Hon'ble Supreme Court upheld the judgment pronounced by Delhi High Court. Dated 04.07.2025.</p>
20.10.2025	<p>Appellant again filed Appeal U/s 107 as per Hon'ble Supreme Court of India order dated 28.08.2025. Application for condonation of delay was too filed. Application for waiver of pre-deposit on ground of financial strains too filed.</p>
16.11.2025	<p>Both appellant and respondent were heard.</p>
21.11.2025	<p>Both appellant and respondent were heard.</p>
24.11.2025	<p>Both appellant and respondent were heard.</p>
26.11.2025	<p>Appellate Authority dismissed the appeal on the reasoning exact number of delays in filing appeal not stated and because of which ratio of M.P. Steel Corporation could not be applied. Thus, 1st Appellate Authority dismissed appeal as time barred and also recorded 10% of disputed tax had not been deposited as such 1st Appeal was dismissed by Appellate Authority.</p>

18.04.2026	Hence present Appeal before Hon'ble Goods & Service Tax Appellate (Moot Tribunal) is being filed U/s 112 of the DGST Act against impugned Order dated 26.11.2025.
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**APPEAL U/S 112 OF THE DGST ACT READ WITH
RULE 110 & 111 OF THE DGST RULES AGAINST THE
IMPUGNED ORDER DATED 26.11.2025 PASSED U/S 107
OF THE ACT BY THE FIRST APPELLATE AUTHORITY
WITH ANNEXURES.**

To

HON'BLE PRESIDENT AND HIS COMPANION MEMBER
OF THE HON'BLE GOODS AND SERVICES TAX
APPELLATE TRIBUNAL, DELHI AT NEW DELHI

The appellant respectfully submits as under: -

That the brief facts giving rise to filing present appeal are: -

1. As per impugned order Petitioner had been assessed U/s 74 of the DGST Act.
2. Petitioner had been assessed vide Adjudication Order dated 06.12.2024 passed U/s 74 of the DGST Act passed by Proper Officer Zone-iv, in respect of F/Y 2022-2023 and the demand raised by Adjudicating

Authority was Rs. 4,75,75,000/- which includes interest of Rs.1,00,00,000/-. The tax demand raised was of Rs.3,75,75,000/-.

3. Against impugned order of Adjudication dated 06.12.2024, Petitioner filed a Writ Petition No. 1211/2025 dated 06.01.2025 before Hon'ble High Court of Delhi. Hon'ble High Court of Delhi vide its order dated 15.01.2025 had remanded the matter back to Adjudicating Authority to provide opportunity of personal hearing and as well as provide copy of S.I.B. documents and pass a reasoned order.
4. Adjudicating Authority again passed an order of assessment dated 26.02.2025 confirming and reiterating the demand of Rs.4,75,75,000/- (Rs.3,75,75,000/- (Tax) and Rs.1,00,00,000/- (Interest).
5. Still aggrieved Petitioner had filed First Appeal on 30.05.2025 against order dated 26.02.2025.
6. First hearing of the appeal was fixed for 03.06.2025 by Appellate Authority but nobody had attended as per Appellate Order. Another notice for 11.06.2025 issued in response to which Counsel of the Petitioner Sh. K.K. Sharma Adv. Appeared and argued the whole order is concoction of mind of Adjudicating Authority. Case was then adjourned to 16.06.2025.
7. On 16.06.2025 Counsel filed Written Submission and argued the case is a concoction of mind of Assessing Authority and nothing survives.

However case was adjourned to 30.06.2025 when nobody attended and case decided ex parte by First Appellate Authority on 30.06.2025.

A. As nobody had appeared. Case was decided ex parte by First Appellate Authority by dismissing the appeal on the following reasoning:-

- (i) Being a Statutory Authority has no power to condone delay in filing Appeal and as such appeal dismissed being time barred. However, it has also been recorded that no application for condonation of delay filed.
- (ii) No compliance of Sec. 107 (6) of the CGST Act has been made by petitioner.
- (iii) There has been no prayer for waiver of pre-deposit amount and moreover being statutory authority has no power to do waiver from pre-deposit as prescribed U/s 107(6)of the Act.

8. A Writ Petition against order of 1st Appellate Authority was again filed dated 30.06.2025 before Hon'ble High Court of Delhi. Hon'ble High Court directed to decide appeal in light of decision of Hon'ble S.C. in the case of M.P. Steel Corporation Vs. Commissioner Central Excise (2015) 7 SCC -58.

9. Instead of approaching 1st Appellate Authority, petitioner approached Hon'ble S.C. in SLP on 26.08.2015. The Hon'ble S.C. upheld the order of High Court of Delhi but directed First Appellate Authority to dispose of

the appeal including condonation of delay application if moved and pass reasoned and speaking order as that demand in present case is Rs.4,75,75,000/- that includes interest of Rs.1,00,00,000/- and Tax Rs.3,75,75,000/-.

In pursuance to Hon'ble Supreme Court direction the appeal was again filed on 20.10.2025 with an application for condonation of delay and also waiver of pre-deposit due to financial constraints.

10. First Appellate Authority heard the appeal filed on 21.11.2025 filed in pursuance to Hon'ble S.C. direction dated 26.08.2025.

A. Appellant raised ground taken before Hon'ble High Court of Delhi i.e. so far condonation of delay is considered. Appellant relied on the case of M.P. Steel Corporation Vs. Commissioner Central Excise (2015) 7 SCC -58 for condonation of delay and relied on Financial constraints being faced for waiver of pre-deposit of 10% of disputed tax for which no documents filed except an affidavit of partner

B. First Appellate Authority vide its decision date 26.11.2025 dismissed appeal on the ground that specific number of exact days for which delay occurred had not been explained on which ratio of Supreme Court judgment in the case of M.P. Steel Corporation could be applied. As such there is no prayer of specific number of

days for which delay had occurred in order to invoke Section 14 of the Limitation Act and as such dismissed appeal as time barred.

- C. No power to waive 10% pre-deposit of disputed tax hence appeal dismissed.
- D. Appellant as such is filing present appeal before Goods and Services Tax Appellate Tribunal (Moot Tribunal) against impugned order dated 26.11.2025.

11. **THE FOLLOWING QUESTION OF LAW DOES ARISE IN THIS CASE: -**

- (i) When the order dated 09.07.2025 passed by High Court of Delhi directed Appellate Authority to consider the plea of condonation of delay in view of ruling of Supreme Court in M.P. Steel Corporation vs. Commissioner of Central Excise (2015) 7 SCC 58 and Supreme Court having too directed to passed fresh order in terms of order dated 28.07.2025 had affirmed the view of High Court and directed Appellate Authority to pass a fresh order. Whether the Appellate Tribunal had erred in law in merely dismissing appeal without doing any enquiry as mandated U/s 107(11) of the DGST Act, on the ground merely exact number of delay had not been mentioned by Appellant, hence, Appeal filed is time barred, when Section 107(11) mandates that “the Appellate Authority shall, after making such inquiry as may be necessary pass such order as deem fit”?

- (ii) Having not made any enquiry regarding finding number of days delay from record, whether 1st Appellate Authority had not erred in law in passing an order rejecting appeal (as time barred) in defiance to Section 107(11) of the Act and whether same is just and proper?
- (iii) Whether waiver from 10% deposit of remaining amount of disputed tax in terms of Section 107(6) of the DGST Act is permissible in law on the grounds of financial constraints as well as on the ground that the order passed by Adjudicating Authority is 'non-est' and in violation of Section 6(2)A of the DGST Act, as adjudication order had only been passed under DGST Act when law requires Authority to pass order under both Acts i.e. DGST and CGST Act being a proper officer and impugned order not defining disputed amount under each Act is not suffering from a jurisdictional error?
- (iv) Whether Appellate Authority has inherent power to do justice in the appeals brought before it when it is required to make further enquires as deem it in term of Section 107(11) and in this case Appellate Authority had been exercising power in pursuance to High Court order confirmed by Supreme Court in this case itself.?
- (v) Whether limitation period of filing appeal in respect of non-est order will ever start or end as non-est order is believed to not exist?

- (vi) Whether Petitioner can be left remediless against an arbitrary demand created vide Impugned order in violation of Section 6(2) of the Act can be allowed to exist on portal when the order passed is contrary to Section 6(2)(a) of the DGST Act, 2017 and as such bad in law for violation of Section 6(2)(a) of the Act which mandates to pass DGST and CGST order together?

12. **GROUND OF APPEAL**

- A. The impugned Adjudication order upheld by Appellate creating huge tax liabilities under DGST Act alone amounting to Rs.4,75,75,000/- is a “nonest” order in view of having been passed in violation of Sec. 6(2) (a) of the DGST Act Section 6(2) (a) of the DGST Act for ready reference is extracted below: -

“SECTION 6(2) (A) OF THE DGST ACT,2017

(2) Subject to the conditions specified in the notification issued under sub-section (1),-

(a) where any proper officer issues an order under this Act, he shall also issue an order under the Central Goods and Services Tax Act, as authorised by the said Act under intimation to the jurisdictional officer of central tax;”

This section i.e. 6(2)(a) casts a burden on the Proper Officer to pass order under DGST Act as well as CGST Act. Having not passed an order under DGST Act and Central Goods and Services Tax act simultaneously, the

impugned adjudication order is vague and non-est i.e. never existed. In case of order being on violative of Section 6(2)(a) of the Act and being without jurisdiction there cannot be a compliance to Section 107(6) of the Act i.e. despitng 10% of remaining amount in dispute as ‘non-est’ order is no order and for this reason also the impugned order is a nullity and as such bad in law being without jurisdiction.

- B. The 1st Appellate Authority is expected to do justice, in case of clear cut nonest order which had been passed, clearly in voliation of Section 6(2)(a) of DGST Act the first Appellate Authority had erred in law in mandating insisting on compliance of Section 107(6) of the DGST Act i.e. 10% deposited of remaining amount of disputed tax.
- C. Once Appellate Authority since had been exercising power in examining impugned order in original as per Supreme Court direction in petitioner case, the Appellate Authority has erred in law in not examining the order by making enquiries that the order is jurisdictionally bad in law and not sustainable. It is clearly visible from record that the order in original had only been passed under DGST Act in non-compliance to section 6(2)(a) of the Act, which mandates proper officer under CGST Act and being a proper Officer under both the Acts the passing of order under DGST Act alone in arbitrary, violative of principles of fairness and non-performance of the duty cast on proper officer under 2(A) of the Act.

- D. Because of lapse in not passing adjudication order strictly in compliance to Section 6(2)(a) of the DGST Act, the order passed in ‘nonest’ which never exist in law and since it is available on portal this has to be quashed. The requirement of pre-deposit of 10% of remaining tax in dispute is only applicable in case of “Order” and not in case of order which is non-est.
- E. IN the absence of specific exclusion of law of Limitation, Section 14 & 5 of the Limitation Act from DGST Act, the same are applicable. Appellate Authority had erred in law in not deciding condonation application in terms of Supreme Court judgment in M.P. Steel Corporation vs. Commissioner Central Excise on merit rather dismissed on ground of not informing number of days.

SUBMISSION: -

Petitioner hereby submits his brief contentions as under: -

- A. The impugned order dated 26.11.2025 passed by Appellate Authority confirming adjudication order creating a demand of Rs.4,75,75,000/- that includes interest of Rs.1,00,00,000/- *Tax demand only of Rs.3,75,75,000/-) pertaining to tax period 2022-23 is arbitrary, illegal unsustainable and without jurisdiction as the adjudication order dated 06.02.2024 passed under Section 74 of the DGST Act only, is not an order rather same is a nonest order which means a order never existed. The reason for this submission is section 6(2)(a) of the DGST Act puts a burden / duty on proper officer to pass an order under

CGST Act also in respect of tax period for which proper officer is exercising his jurisdiction. The statutory scheme of Section 6(2)(a) mandates comprehensive adjudication under both DGST Act and CGST Act by single authority. The impugned order, having been passed under DGST Act defeats the statutory mandate and results in incomplete adjudication rendering the impugned order unsustainable.

B. Having not acted strictly in accordance with Section 6(2)(a) of the DGST Act the order passed is a non-est order and without jurisdiction which means never existed.

C. In these circumstances when an order is jurisdictionally bad and consequently a non-est order neither the time period prescribed U/s 107 for filing appeal will start nor it will end. Because law assumes existence of a “order” while invoking Section 107 of the DGST / CGST Act. In the absence of an “Order” limitation and as well as conditions impugned U/s 107 will not be attracted.

D. IN present case the impugned adjudication order under DGST Act alone does not fall within definition of order rather same itself is a non-est order having been passed in violation of Section 6(2)(a) of the DGST Act.

E. Hence, it is submitted that whole controversy in this case of appeal being late or appeal filed without making of 10% deposit of remaining tax in dispute loses its strength as in both situation limitation of filing appeal will only start if

there exists a valid executable order, Impugned order being not a order (CGST and DGST) and same is even not executable.

F. Section 6(2)(a) of the DGST Act having mandated to issue order under DGST Act and CGST Act and proper officer having not done that and only passed the Adjudicating under DGST Act is NONEST which means never existed. Order being jurisdictionally bad can never come to live and consequently no limitation to file appeal or end of time to file appeal will ever start.

The condition of pre-deposit of 10% u/s 107(6) is only in the case of an “ORDER” and order means a jurisdictionally valid order in law and only then it can be enforced. Enforcement of impugned adjudication order is not possible because of impugned order being in violation of bar contained U/s 6(2)(a) of the DGST Act. Hence, the whole controversy appeal being filed late or appeal filed without pre-deposit loses its strength because the period of limitation will start if there exist an ORDER which is validly executable and in above that of the order become a non-executable and period of limitation or pre-condition compliance of 10% does not apply.

G. In present case the order being nonest, neither period of limitation for filing appeal will start, if time does not start, nor there will be an end of period to file appeal and as such appeal can be filed beyond limitation. Reliance placed on a decision of High Court Punjab & Haryana at Chandigarh in the case of

Balwan Sing Anr. Vs. Attar Singh & Ors., RSA -319-2017 (O & M) dated 21.04.2025.

H. Thus, on issue of waiver of pre-deposit of section 107(6) of the Act Petitioner pleading adjudication order being non-est and Petitioner having filed and pleaded financial constraints. The request for waving pre-deposit condition needs to be allowed and reliance is placed on following case laws:

- (i) Pre-deposit : ever through mandatory at 25% of demand still discretion can be exercised in cases when demand has been raised to generate Revenue and orders are purely arbitrary “Punjab State Power Corporation Ltd. vs. State of Punjab” 23.12.2015.
- (ii) Pre-deposit not to be made in case of time barred assessment (2015) 50 PHT 187 VAT, WPC 22437 of 2024 Samrat Plywood vs. State of Punjab (PHC) dated 24.12.2024
- (iii) Appeal pre-deposit – despite statutory provisions of pre-deposit, High Court can grant stay in Writ power 117 STC 436 (SC).
- (iv) A & T Security (DHC) by Justice Prathibha M Singh “No-pre-deposit” WPC No. 16906/2025.
- (v) Trilok Chand vs. State of Haryana CWP No. 11100/2026 Complete Stay granted in case order passed in violative of procedure prescribed in law.
- (vi) SC – Appeal U/s 107 CGST Simla Gomti PAN Products vs. Commissioner of State UP, SLP(C) No. 5266/2026 pre-deposit reduced.

(vii) (2017) 100 VST 204 (Delhi) SREI Equipment's Finance Ltd. vs. Commissioner of VAT, VAT Appl. NO. 2 of 2017.

(H) On next issue of condoning period of limitation for filing appeal beyond three + one month, here also on same apology of order being nonest – not in existence no period apply and of filing appeal will start nor any period will expire nor any condonation is requirement in present facts of the case i.e. in case order under challenge is without jurisdiction and nonest.

(I) Besides on the issue of deciding condonation application in light of M.P. Steel Corporation vs. Commissioner of Central Excise, Civil Appeal No. 4367/2004 it is submitted that as proper officer has not fully exercised jurisdiction entrusted to him under Section 6(2)(a), the adjudication is incomplete as section 6(2)(a) mandates composite adjudication under DGST and CGST Act. The Hon'ble High Court in Armour Security India Ltd. vs. Commissioner CGST had held one Authority is to handle entire adjudication which section 6(2)(a) mandates and as such the adjudication order having been passed under DGST alone and so the Appellate Order dated 26.11.2025. The Scheme of Section 107(1) and (4) regarding time line will not start as the order (Adjudication) is in defiance to Section 6(2)(a) of the Act and consequently a non-est order.

However on point of limitation prescribed under Section 107(1) of the DGST Act i.e. three months and one month for filing appeal, it is submitted there has been no specific debar of Applicability of law of limitation in special

act i.e. DGST Act, the submission are law of limitation can be made applicable in special statute and time for filing appeal can be extended under Section 14 and Section 5 of the law of limitation on fulfilling their conditions. A innocent person cannot be left remediless in case of an order being purely in violation of Section 6(2)(a) of the DGST Act and order being illegal, unsustainable, un-executable and thus being a non-est order having been passed without making a complete adjuration under CGST and DGST Act and such order can be challenged at any stage. Mere procedural non-compliance with time lines cannot trump substantive rights when appeal in volumes speaks substantive and genuine grievance as appeals are to be heard on merits and not to be dismissed on technical time bar issue.

Even recently the Hon'ble Supreme Court of India has issued Notice in identical provisions of law under Service Tax Act. The similar issue is being examined by the Hon'ble Supreme Court of India in the SLP No. 7778/2026 dated 07.04.2026. In this case the Supreme Court has issued notice in a Special Leave Petition raising the question whether the benefit of Section 5 of the Limitation Act, 1963, which allows for the condonation of delay upon showing "sufficient cause," can be extended to appeals filed under Section 85(3A) of the Finance Act, 1994.

PRAYER: -

In light of above pleadings, it is prayed: -

- (i) That the Order of 1st Appellate Authority confirming adjudication order be set aside / quashed as the Adjudicating order itself had been passed in violation of Section 6(2)(a) of the DGST Act and is a non-est order which is even not executable being against scheme of the DGST Act; or
- (ii) grant any other relief as deemed fit in the facts and circumstances of the case.

Sd/-
APPELLANT

THROUGH

Sd/-
(A.K. BABBAR)
COUNSEL

BEFORE THE JOINT COMMISSIONER (APPEAL) ZONE IV, DGST, DELHI

IN THE MATTER OF: Ramesh Kumar and Co.
49 Naraina,
New Delhi.
GSTIN No.....

DIN NO.XXXXXX

26.11.25

ORDER UNDER SECTION 107(11) OF THE DGST ACT 2017 FOR THE TAX PERIOD 2022-23 – ADUDICATION ORDER UNDER SECTION 74 PASSED BY THE PROPER OFFICER ZONE IV DATED 6.12.24 INVOLVING A DEMAND OF RS 4,75,75000/-

PRESENT FOR THE APPELLANT: SHRI S K SHARMA, ADVOCATE
PRESENT FOR THE REVENUE. : SHRI R K GUPTA, AC AND DR

The present appeal is being heard as per directions of the Supreme Court dated 26.8.25 wherein the Hon'ble apex Court has directed the undersigned to dispose of the appeal including condonation of delay application, if moved, of the appellant and pass a reasoned and speaking order. The total demand involved is Rs 4,75,75,000/- that includes interest of 1,00,00,000/-. Thus the tax demand is Rs 3,75,75, 000/-

HISTORY OF THE MATTER

The appellant feeling aggrieved against the order of the adjudicating authority of zone IV dated 6.12.24 moved Delhi. High Court by way of CWP No. 1211 dated 6.1.25 praying therein that the adjudication order has been passed ex- parte without service of any notice at all and certain SIB reports have been relied upon copies of which were not given. Hence, the whole adjudication order is bad in law. The High Court vide orders 15.1.25 directed the authorities to supply copy of the SIB Report, take the reply of the Petitioner on record and then pass a reasoned order. The Petitioner then took copy of the SIB report and appeared before the adjudicating authority. After considering the reply of the Petitioner the adjudicating authority passed a reasoned and speaking order dated 26.2.25 that was served on the petitioner creating the above demand.

2. Feeling aggrieved the petitioner filed an appeal manually before the FAA on 30.5.25. The first AA called the appellant for hearing on 3.6.25. Non appeared. Another notice was sent for 11.6.25 where the counsel Shri S K Sharma Advocate appeared and argued that the whole order is a concoction of the mind of the

adjudicating authority wherein a very high stake demand has been created and hence the order be quashed. He was asked to file written submissions that he filed on 16.6.25. He was called again on 30.6.25 for arguments when non appeared nor any intimation or application for adjournment was received.

While examining the appeal it was found that the appeal is time barred and there was no application filed for condonation of delay. Also it was noticed that the appellant did not deposit the mandatory pre-deposit of 10 percent amount. Hence the appeal was dismissed as time barred and also in limine on 1.7.25 for non-complying with the mandatory provision of pre-deposit under section 107(6) of the DGST Act.

Feeling aggrieved with the order of dismissal of appeal as time barred and also in limine the appellant again approached the High Court with the grounds of limitation and of pre-deposit waiver. The CWP was filed on 4.7.25. After hearing the High Court by order dated 9.7.25 directed the appellate authority to consider the plea of condonation of delay in view of the ruling of the Supreme Court in the case of in M.P. Steel Corporation v. Commissioner of Central Excise, (2015) 7 SCC 58. And it directed the Petitioner to appear before the appellate authority on 16.7.25 as per request of the appellant.

Instead of appearing before the first appellate authority as per directions of the High Court the Petitioner approached the SC by way of SLP on 28.9.25 praying for condonation of delay as per Supreme Court ruling in M P Steel Corporation (supra) as well as waiver of pre-deposit of 10 percent. The hon'ble Supreme Court affirmed the order of the High Court dated 9.7.25 and directed the appellate authority to pass the order afresh. However SC did not pass any order on waiver of pre-deposit.

The appellant again filed first appeal under section 107 as per directions of the Supreme Court vide their order dated 28.7.25 and prayed for condonation of delay and also waiver of pre-deposit. The appeal was filed on 20.10.25 with application for condonation of delay as well as an application for waiver of pre-deposit on the ground of financial constraints and the demands being illegal as alleged in the grounds of appeal

HEARD THE COUNSELS AT LENGTH.

The case was called for hearing on 16.11.25, 24.11.25 and finally on 21.11.25 and the detailed arguments from both sides heard. The appellant has reiterated the grounds taken before High Court i.e. M P Steel Corporation case for condonation of delay and financial constraints for waiver of pre-deposit of 10 percent for which no documentary evidence has been filed except an affidavit from the Partner of the firm.

The application for condonation of delay has not specifically and date wise mentioned the total period of delay involved based on which ratio of SC judgment in M P Steel Corporation could be applied. There is no prayer in the application for

condonation of delay seeking condonation of delay of a specific period during which alternative remedy was being invoked by the appellant to apply Section 14 of the Limitation Act. Hence, I am left with no choice but to dismiss the appeal as time barred.

Also there is no pre-deposit of 10 percent of the tax amount made and there are of any higher Court to waive it as prayed for the appellant. Hence, I being a statutory authority under DGST Act cannot waive nor have any power to waive the pre-deposit of 10 percent. The appeal is dismissed. on this score also.

The appeal of the appellant is accordingly dismissed in limine – being time barred and being non-compliance of provisions regarding pre-deposit under section 107(6) of the DGST ACT.

JOINT COMM. (APP) ZONE IV
DIGITALLY SIGNED.

ITEM NO.21

COURT NO.7

SECTION XII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 7778/2026

[Arising out of impugned final judgment and order dated 19-11-2025 in WP No. 35134/2025 passed by the High Court for The State of Telangana at Hyderabad]

MORTHALA SIDDA REDDY

Petitioner(s)

VERSUS

THE UNION OF INDIA & ORS.

Respondent(s)

FOR ADMISSION

IA No. 61089/2026 - PERMISSION TO FILE LENGTHY LIST OF DATES

Date : 13-04-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) :

Mr. K. Parameshwar, Sr. Adv.
Mr. Tadimalla Bhasker Gowtham, Adv.
Mr. M. Parameswara Reddy, Adv.
Mr. M. Chandrakanth Reddy, Adv.
Mr. Prasad Hegde, Adv.
Mr. N. Sai Kaushal, Adv.
Ms. Veda Singh, Adv.
Mr. Aditi Garg, Adv.
Mr. Vallari Km, Adv.
Mr. Godavari V Durga Prasad, Adv.
Ms. Shambhavi Shiva, Adv.
Mr. Sandeep Singh, AOR

For Respondent(s) :

UPON hearing the counsel the Court made the following
O R D E R

1. The short point that falls for our consideration is whether for the purpose of condoning delay insofar as Section 85(3) A of the Finance Act. 1994 is concerned, whether Section 5 of the Limitation Act would apply or not.

2. We heard Mr. K. Parameshwar, the learned Senior counsel appearing for the petitioner - Assessee.

3. In the course of today's hearing, the learned Senior counsel brought to our notice a Three-Judge Bench decision of this Court in "*Commissioner of Customs & Central Excise vs. Hongo India Private Limited & Another*" Reported in (2009) 5 SCC 791 and also the decision of the Two-Judge Bench of this Court in the case of "*Union of India vs Popular Construction Co.*" Reported in (2001)8 SCC 470.

4. Issue notice, returnable in four weeks.

5. Dasti service, in addition, is permitted.

6. Liberty is granted to serve the Standing counsel for the Union of India.

(VISHAL ANAND)
DY. REGISTRAR

(POOJA SHARMA)
COURT MASTER (NSH)