GSTAT

Court No. Court II

INTL.APPL/1/CTT/2026
IN
//

M/S NIRANJAN DAS ....**Appellant**

Versus

POONAM CHOUDHURY & ORS. ....**Respondent**

Counsel for Appellant
BIBHUDENDRA MOHANTY, ADVOCATE

Counsel for Respondent
ANANDA DAS, ADVOCATE

Hon'ble Suchismita Misra, Member(Judicial)
Hon'ble Ananda Satpathy, Member (Technical)

ORDER

Case Nos.: **INTL.APPL/1/CTT/2026**

1. The aforementioned I.A arising out of the appeal filed vide ARN 2026121101000327 dated 07.06.2026, is filed seeking interim relief from the recovery measures initiated by the respondent during pendency of the appeal filed before this Tribunal.

2. Learned Counsel /Representative of the appellant as well as Respondent are present. Heard the interim application from both sides today.

3. Submissions made in the I.A, in brief:

- The appellant is a works contractor executing construction works for different government departments and public authorities.
- The GST liabilities for the year 2018-19 is stated to have been fully discharged before initiation of any proceeding under the GST Act.

- It is also submitted that, despite having fully discharged the GST liabilities due for the year 2018-19, and despite having not committed any fraud, or not having suppressed or misstated any material fact willfully with any intent to evade any tax, a proceeding under section 74 of the OGST Act was initiated and demand on account of penalty and interest has been confirmed.
- It is also submitted that, being aggrieved with the said demand confirmation order, appeal was preferred under section 107 of the OGST Act.
- It is also submitted that, the said appeal, filed under section 107 of the OGST Act, has been rejected on the ground of limitation without considering the substantive issues raised in the grounds of appeal including sustainability of the order imposing penalty under section 74 of the Act.

- Being aggrieved with the order passed rejecting the appeal filed under section 107 of the Act, appeal has been filed before this Tribunal under Section 112(1) of the Act.
- Even while the appeal filed before this Tribunal is pending for disposal, recovery measures has been initiated by the Respondent by way of recovery of amount receivable by the appellant from the works authorities.
- It is also submitted that such coercive action of the Respondent caused severe prejudice and consequently irreparable injury to the applicant by way of disrupting the ongoing works contract business even while the revenue interest is very well safeguarded in view of full discharge of the tax liabilities.
- Such coercive action by the respondent, if allowed unchecked, shall defeat the purpose of appeal and also the statutory protection available to the appellant by way of interim stay of recovery of the disputed demand during pendency of the appeal.

4. With the afore-stated averments, the appellant, inter-alia sought a direction from the Tribunal to withdraw the recovery notice issued by the respondent to the works authorities.

5. After hearing the appellant's representative, learned Counsel appearing for the respondent was given the opportunity to state the case of the respondent and to confirm the facts regarding full discharge of GST liabilities by the appellant, as stated. The learned Counsel was allowed time to take instruction from the respondent and also to confirm deposit of tax amount discharging full GST liability by the appellant.

6.After taking instruction, learned Counsel for the respondent confirmed full discharge of GST liabilities and did not contest the appellant's prayer for granting interim stay of the recovery of demand during pendency of the appeal filed before this tribunal.

7. After hearing the representatives of both the parties, the findings of the Tribunal are as follows: -

- The appeal filed by the applicant is still under scrutiny and yet to be admitted for which, it would be premature to examine the substantive issues raised in the I.A, questioning the legality and sustainability of invoking section 74 of the OGST Act for confirming the impugned demand.
- The appeal filed under section 107 of the OGST Act having been rejected on the ground of limitation, the substantive issues must not have been examined in the OIA.
- Even while the appeal has been preferred before this Tribunal under section 112(1) of the OGST Act and even when there is a statutory protection by way of deemed stay of the recovery of the demand under section 112(9), recovery proceeding has been initiated by issuing recovery notice to the source of payment of the consideration money receivable by the applicant against supply of works contract service.
- As revealed from the grounds of the IA, even while there is involvement of tax, the applicant having discharged the full tax liability as confirmed by the representative of the respondent, there does not seem to be any possibility of noncompliance to the requirement of sec 112(8) of the Act.

8. In such scenario, it is found that if recovery of the disputed demand is not stayed, there is every possibility that the purpose of the appeal is going to be defeated; and irreparable damage may be caused to the applicant by way of destabilizing the ongoing business. Therefore, in the interest of justice the following orders are passed under section 113 of the OGST Act read with Rule 29 of GSTAT (procedure) Rules,2025.: -

- Operation of the order passed under section 107 of the OGST Act rejecting the appeal filed by the applicant shall remain stayed till disposal of the appeal filed before this tribunal, and
- the respondent, or any other officer, shall desist from pursuing recovery of the demand disputed in the aforesaid appeal till disposal of the present appeal preferred by the appellant.

This order be communicated forthwith to the parties concerned.

(Ananda Satpathy) (Suchismita Misra)

Dated: 28.08.2026