GOODS AND SERVICES TAX APPELLATE TRIBUNAL
ERNAKULAM BENCH, KERALAM STATE
5TH FLOOR, CR BUILDING, CGST HEADQUARTERS, IS PRESS ROAD,
ERNAKULAM - 682018

APPEAL NO: APL/17/ERN/2026

THE COMMISSIONER OF CGST & CE
KOCHI **..... Appellant**

Versus

PEECHATTU GLASS WORLD **..... Respondent**

For Appellant
Baiju Daniel, AR

For Respondent
P.S. Soman Pulladan, Advocate

CORAM:
Hon'ble Shri Subramanya Rayaprol, Vice-President
Hon'ble Shri Ramamoorthi Sriram, Member (Technical)

……

FINAL ORDER NO. 04/EKM/KERALAM/2026

Date of Hearing: 10-8-2026
Date of Order: 8-9-2026

1.0 Mr Baiju Daniel, Ld Deputy Commissioner, CGST, appeared as AR for the Appellant and PS Soman Pulladan, Advocate, appeared for the respondent.

2.0 The present appeals is filed by the Revenue (CGST Department) against the Order-in-Appeal dated 9-10-2024 passed by the JC (Appeals) by partially allowing the appeals and partially remanding the matter to the original adjudicating authority for re-adjudication.

3.0 The Brief facts of the case is that the appellant is a registered taxpayer with GSTIN 32EBMPS2590L1Z2 and are engaged in the trading of float glass and surface

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ground or polished glass etc. On scrutiny of returns of the respondent taxpayer, for the period 2017-18, various discrepancies were observed which culminated into a Show Cause Notice No. 02/2023 dated 21-3-2023. The SCN was adjudicated vide OIO No. 02/2023-24-GST dated 29-11-2023 and a corrigendum dated 11-12-2023 confirming the demand amount along with interest and penalty. Aggrieved by the said order, the taxpayer filed an appeal before the JC (Appeals). The JC (Appeals), partially dropped the demand amounts, and also referred the matter back to the Adjudicating authority for verification of figures and documents and to pass a fresh order. Hence this appeals.

4.0 Ld Deputy Commissioner appearing as AR for the respondent, submits that the JC (Appeals) has violated Section 107(11) of the CGST Act, 2017 and Rule 113(1) of the CGST Rules, 2017. He submits that the JC (Appeals) unlawfully sent back the case to the Adjudicating Authority to verify tax calculation and the documentary proof produced by the respondent and if found order, delete the demands. He submits that the JC (Appeals) has no power to remand under Section 107 (11) of the CGST Act, 2017 and prays that the appeals be allowed by setting aside the impugned Order-in-Appeal dated 9-10-2024, and send it back to the JC (Appeals) with a direction to complete the verification of documents and passing a fresh order.

5.0 The Ld Advocate has made a written submission dated 7-9-2026 wherein he has pleaded that the appeals filed by the respondent is hit by monetary limits as the amount involved is below the threshold limits of Rs 20 lakhs as prescribed In the CBIC Circular dated 26-6-2024.

6.0 Heard both sides. We find that the issue to be decided here is as below:

(i) *Whether in the facts and circumstances of the case, the JC (Appeals) can remand the matter to the original adjudicating authority under Section 107 of the CGST / KGST Act, 2017, for verification of the documents / evidences submitted before him, and further giving direction to delete the demand if found in order.*

(ii) *Whether such an order in appeal referring the matter back to the original adjudicating authority is proper, legal and sustainable under Section 107 (10) and 107 (11) of the CGST/KGST Act, 2017.*

(iii) *Whether the appeals filed by the Respondent Revenue (CGST Dept) is hit by monetary limit and can be dismissed on this ground alone.*

7.0 We find that the adjudicating authority in the Order-in-Original No. 02/2023-24 GST dated 29-11-2023 and the Corrigendum dated 11-12-2023 confirmed the demands of tax as well as Late Fee, as proposed in the SCN, under Section 73(1)/73(9) of the CGST Act/KGST Act, 2017 read with Section 20 of the IGST Act, 2017 along with applicable interest under Section 50(3) of the CGST Act/KGST Act, 2017 read with Section 20 of the IGST Act, 2017 and penalties of Rs.70,056/- {IGST} and Rs.60,550/-{CGST} was imposed in terms of Section 73(9) of the CGST Act/KGST Act, 2017 read with Section 122(2)(a) of the Acts ibid and Section 20 of the IGST Act, 2017. Further, Interest of Rs.5,15,634/- (CGST: Rs.2,57,817/-, SGST: Rs.2,57,817/-) for delayed payment of tax, was confirmed under Section 50(1) of the CGST Act/KGST Act, 2017. Aggrieved by the said order, the respondent taxpayer filed an appeal before Joint Commissioner (Appeals), Kochi vide the appeal A.No.84/GST/CHN/ADC-JC/2023-24 dated 10-1-2024 and the Appellate Authority vide OIA No.COC-GST-000-APP-125-126- 2024-25-JC dated 9-10-2024, *partially allowed the appeal by directing the lower authority to cause verification of further documents to be furnished by the*

tax payer and consider modifying the demand consequent to such verification. This Order-in-Appeal was reviewed by the Principal Commissioner of CGST & CE, Kochi, and authorised the Deputy/Assistant Commissioner of CGST & CE, to file Appeal against the said Order in Appeal.

8.0 We also find it important to read into the operating part of the order of the JC (Appeals) is reproduced as below:

> *(1) I partially allow the appeal A.No.84/GST/CIIN/ADC-JC/2023-24 dated 10.01.2024 filed by Appellant viz., Shri. Soji, Peechattu Glass World, Ground Floor, I/10,11,12, Kothamangalam Main Road, Kuttkuzhi, Kothamangalam, Emakulam-686691 [GSTIN: 32EBMPS2590LIZ2]. Further, I modify the operative portion of the Order at Sl. Nos. (i), (iii), (iv) and (viii) of the Order-in-Original dated 29.11.2023 passed by the Respondent deleting the demand to the tune of Rs.2,93,300/- {IGST} along with applicable interest and proportionate penalty as imposed. Appellant is directed to submit relevant documentary proof in support of the workings/reconciliation provided in Table at Para 8 supra for the remaining Rs.4,07,262/- {IGST} and material evidence, invoices etc. in support, of his claims on TRAN-1 Credit of Rs 6,05,502/- IGST. Respondent shall verify the details/relied-upon documents provided by the appellant in support of his stand and upon verification of relevant documents, if found in order, any such unwarranted demand to the extent found no longer sustainable shall stand deleted as discussed at Paras 9 and 10 supra.*
>
> *(2) Respondent shall accurately examine and verify the eligibility of Appellant for conditional waiver of interest and penalty as envisaged under Section 146 of the Finance (No. 2) Act, 2024 vide insertion of new Section 128A in the CGST Act and if found in order extend the waiver to the extent found to be legally tenable.*

9.0 We find that in respect of the partial demand amount, the appeals are allowed, and for remaining amount of demand, the JC (Appeals) has not taken any final decision on merits and has referred the matter back to the original adjudicating authority for verification and passing a fresh order. The JC(Appeals) also granted the Respondent-Taxpayer, liberty to submit necessary documentary proof before the Adjudicating Authority in support of the contentions brought out and the Adjudicating Authority was directed to accurately examine and verify the documentary proofs with respect to correctness of the said tax demand and if found in order, delete the demands to the extent found to be no longer legally tenable.

10.0 We wish to reproduce the Section 107 of the CGST/KGST Act, 2017, which reads as below:

> ***107. Appeals to Appellate Authority.***
>
> *(1). . . (9)*
>
> ***(10) The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.***
>
> ***(11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:***
>
> ***Provided*** *that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:*

Provided further *that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74* [4] ***[****or section 74A****].***

(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.

11.0 We find that as per the Section 107 (10), of the CGST/KGST, the JC (Appeals) was within his rights at the time of hearing an appeal, to allow an appellant to add any additional ground of appeal, and the additional documents were allowed to be furnished. But, instead of himself getting it verified, the Appellate Authority proceed to pass an order directing the original adjudicating authority to verify and if found correct, the demand may be deleted, or otherwise, the demand to be confirmed once again. The JC (Appeals) has not given any reasoning or points of determination as to why he himself cannot verify the documents and figures, by calling for records and figures, from both the parties before him, and to conclude with a reasoned order.

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12.0 On a reading of Section 107 (11) ibid, we find that the appellate authority is empowered to cause inquiry, and after concluding such inquiry which he felt necessary, should have passed an order either, confirming, modifying or annulling the decision or order which is appealed against him, and it is also categorically mentioned that ***'but shall not refer the case back to the adjudicating authority that passed the said decision or order'***. We find that the statue allows the JC (Appeals) to

conduct inquiry, call for documents, verify them and take a decision to either confirm the demand, drop the demand or modify the demand amounts, but in any case, the JC (Appeals) should not have referred it back to the original adjudicating authority.

13.0 We find that as per Section 107 (12), the JC (Appeals) was statutorily required to have passed an order disposing the appeal, and state the points for determination, the decision thereon and the reasons for such decision. But, we find that the JC (appeals) has failed to do so. We also find that the Section 107 (11) of the CGST Act, 2017 prescribes specifically that the JC (Appeals) does not have the legal power to refer back the matter to the original adjudicating authority for any reason of verification of documents or figures. The appellate authority ought to have done all the verification and arrived at a conclusion and accordingly should have passed a reasoned final order, either modifying, annulling or confirming the order of the adjudicating authority, without using any if's and but's in the appellate order. The Appellate Authority is expected to pass a reasoned order on merits, after following the principles of natural justice, under Section 107 of the CGST/KGST Act, 2017, and shall not refer or remand the matter back to the original adjudicating authority for any reason.

14.0 A plain reading of the aforesaid provision makes it abundantly clear that the Appellate Authority is empowered to pass such order as it deems just and proper by confirming, modifying, or annulling the decision or order appealed against. The provision, however, unequivocally prohibits the JC (Appeals) from referring the case back to the authority that passed the decision or order under appeal. Thus, the statute contemplates only three courses of action available to the Appellate Authority, namely, to confirm, modify, or annul the impugned decision or order. Where necessary, the Appellate Authority may undertake or cause to be undertaken such further inquiry as

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it considers necessary and thereafter adjudicate the matter on its own merits. The power to remand has been expressly excluded by the legislature.

15.0 We find that various Hon'ble High Courts have dealt with this issue which we wish to discuss as below:

(i) In the case of Kronos Solutions India Private Limited Versus Union Of India cited in 2024 (2) TMI 135 - ALLAHABAD HIGH COURT, Hon'ble High Court has held that,

3. Solitary submission advanced by the learned counsel for the petitioner is, the above order at least operative portion has been passed in defiance to the provisions of Section 107(11) of CGST Act, 2017. For ready reference, that provision of law reads as below:-

"11. The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:

Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74."

4. On the other hand, learned counsel for the Revenue has raised a preliminary objection as to maintainability of the writ petition. He would submit, the impugned order is appealable under Section 112 of the Act. Therefore, no interference may be made.

5. A counter affidavit has also been filed on behalf of respondent nos. 3 and 5 to dispute the case of the petitioner, on merits.

6. Having heard learned counsel for the parties and having perused the record, the preliminary objection as to availability of statutory appeal is not sustained as the Tribunal has not yet been constituted. In any case, in face of complete failure on part of appeal authority to exercise its jurisdiction in accordance with law, the writ court may not hold itself to offer the necessary corrections required, at this initial stage itself.

7. Undeniably, the appeal authority may either confirm or modify or annul the order under appeal. In face of statutory prescription allowing for only three above described options to the appeal authority, no inherent power may remain be exercised by the appeal authority to set aside the order under appeal and remand the proceedings to the original authority. Any doubt in that regard has been clarified by the legislature itself by stating that the appeal authority shall not refer the matter back to the adjudicating authority.

8. Accordingly, no other issue is required to be adjudicated at this stage. Once the appeal authority is seen to have failed to exercise its jurisdiction in accordance with law, such an order may never be sustained. It is accordingly set aside and the matter is remanded to the appeal authority to pass a fresh order after hearing the parties afresh.

9. The writ petition stands allowed.

(ii) In the case of Anand and Anand (Law Firm) Versus The Principal Commissioner Central Goods & Services Tax cited in 2026 (2) TMI 956 - ALLAHABAD HIGH COURT, the Hon'ble High Court has held that,

8. Learned counsel for petitioner has also relied upon a judgment passed by Division Bench of this Court in Kronos Solutions India (P.) Ltd. v. UOI, 2024:AHC:16550-DB wherein similar issue was considered in following manner. For reference, relevant paragraphs of it are quoted below :-

"7. Undeniably, the appeal authority may either confirm or modify or annul the order under appeal. In face of statutory prescription allowing for only three above described options to the appeal authority, no inherent power may remain be exercised by the appeal authority to set aside the order under appeal and remand the proceedings to the original authority. Any doubt in that regard has been clarified by the legislature itself by stating that the appeal authority shall not refer the matter back to the adjudicating authority.

8. Accordingly, no other issue is required to be adjudicated at this stage. Once the appeal authority is seen to have failed to exercise its jurisdiction in accordance with law, such an order may never be sustained. It is accordingly set aside and the matter is remanded to the appeal authority to pass a fresh order after hearing the parties afresh."

9. Learned counsel for respondents has not able to make any submission contrary to contents of above referred Clause (11) of Section 107 as well as Kronos Solutions (supra).

10. In aforesaid circumstances, latter part of impugned order dated 27.09.2023 whereby matter has been remitted back to Adjudicating Authority is set aside and this writ petition is disposed of with an observation that Joint Commissioner, CGST Appeals, NOIDA shall decide the appeals filed in accordance with law.

11. The present writ petition is entertained against the order passed in Appeal directly since GST Tribunal which is still not functioning.

12. Writ petition stands disposed of with above observations and directions."

14. Since it has not been disputed by the learned counsel for the Revenue that the matter could not have been remitted back to the adjudicating authority, thus in the opinion of the Court, it would not be appropriate to relegate the writ petitioner to approach the appellate authority, i.e. GST Tribunal.

15. In so far as connected C1 writ petition is concerned, the appellate order is dated 28.06.2024, in connected C-2 writ petition, the order is of 31.05.2024 and in connected C3 writ petition, the same is of 31.05.2024 passed by Respondent no.3 in respective writ petitions, which also remands back the matter to the adjudicating authority, which is not permissible under law.

16. Accordingly, the objection regarding relegating for preferring appeal before GST Tribunal is declined. Resultantly, the writ petitions are being decided in the following terms:

(a) Later part of the judgment and order dated 30.04.2024 (Leading petition), 28.06.2024 (connected C-1), 31.05.2024 (connected C2) and 31.05.2024 (connected C3), whereby matter has been remitted back to the adjudicating authority are set aside.

(b) The writ petition is disposed of with an observation to the Joint Commissioner, CGST (Appeals), Noida to decide the appeal in accordance with law within a period of two months.

17. With the aforesaid observations, the Leading, connected C1, connected C2 and connected C3 writ petitions stand disposed of.

(iii) In the case of Anand and Anand (Law Firm) Versus Principal Commissioner CGST cited in 2025 (9) TMI 468 - ALLAHABAD HIGH COURT, the Hon'ble High Court has held that,

4. From plain reading of aforesaid Section as well as its Clause, there is a mandatory bar for the Appellate Authority that cases shall not be remitted back to Adjudicating Authority who has passed the said decision or order.

5. In the light of aforesaid provision, Court also takes note of paragraph 17 and 18 of impugned order dated 27.09.2023 which are quoted below :-

"17. However, I find that in the instant case the respondent party has not produced any conclusive evidence viz. any agreement etc., therefore in absence of any such evidence available on record, it be appropriate to remand the case back to the adjudicating authority to examine the place of provision of service in details with supporting documents. Needless to say that the procedure of natural justice must be followed before passing any order.

18. In view of the foregoing, all the 09 appeals as listed in para 1 of this order as has been filed by the Department are allowed by way of remand with the directions to the adjudicating authority to re-determine place of supply of service to qualify as the service of respondent as "export of Service as per the provisions of law after examination of the documents by calling from the respondent party."

6. While passing aforesaid direction, Joint Commissioner, CGST Appeals, NOIDA has not carefully perused the above referred sub-clause (11) of Section 107 of Act of 2017.

7. At this stage, Court also takes note that in earlier part of impugned order, probably there are findings in favour of petitioner herein and observations made in paragraph 17 does not relate with earlier findings returned in impugned order.

8. Learned counsel for petitioner has also relied upon a judgment passed by Division Bench of this Court in M/s Kronos Solutions India Pvt. Ltd. vs. Union of India and

others, 2024:AHC:16550-DB wherein similar issue was considered in following manner. For reference, relevant paragraphs of it are quoted below :-

"7. Undeniably, the appeal authority may either confirm or modify or annul the order under appeal. In face of statutory prescription allowing for only three above described options to the appeal authority, no inherent power may remain be exercised by the appeal authority to set aside the order under appeal and remand the proceedings to the original authority. Any doubt in that regard has been clarified by the legislature itself by stating that the appeal authority shall not refer the matter back to the adjudicating authority.

8. Accordingly, no other issue is required to be adjudicated at this stage. Once the appeal authority is seen to have failed to exercise its jurisdiction in accordance with law, such an order may never be sustained. It is accordingly set aside and the matter is remanded to the appeal authority to pass a fresh order after hearing the parties afresh."

9. Learned counsel for respondents has not able to make any submission contrary to contents of above referred Clause (11) of Section 107 as well as M/s Kronos Solutions (supra).

10. In aforesaid circumstances, latter part of impugned order dated 27.09.2023 whereby matter has been remitted back to Adjudicating Authority is set aside and this writ petition is disposed of with an observation that Joint Commissioner, CGST Appeals, NOIDA shall decide the appeals filed in accordance with law.

11. The present writ petition is entertained against the order passed in Appeal directly since GST Tribunal which is still not functioning.

12. Writ petition stands disposed of with above observations and directions.

(iv) In the case of Kanha Shree Steels Versus Assistant Deputy Commissioner of CGST cited in 2025 (8) TMI 1060 - ALLAHABAD HIGH COURT, the Hon'ble High Court has held that,

After hearing learned counsel for the parties, the Court has perused the record.

It is nobody's case that by the impugned order, the authority has come to the conclusion that neither show cause notice, nor the order specify the conditions as required or any reason in detail has been given. The relevant part of the impugned order dated 28.03.2025 is quoted below:

"5.7. I find that, it is trite law that a show cause notice must clearly indicate the reasons in detail for proposing the adverse action in order to enable the noticee to respond to the same. Clearly, the impugned show cause notice does not meet this standard. Further, a show cause notice must set out the allegation in detail. Thus, I find that the impugnet show cause notice and order, being without reasons in detail, is cryptic and deserves to be quashed and set aside. In this regard, I also find support from the pronouncement made in following cases:-

(i) VIBHU BAKHRU AND AMIT MAHAJAN, JJ. CUTHBERT OCEANS LLP VERSUS SUPERINTENDENT OF CGST, ROHINI [W.P. (C) NO. 10421 OF 2023 AND C.M. APPL. NO. 40335 OF 2023, DECIDED ON 8-8-2023]: Held: Superintendent of CGST issued impugned show cause notice proposing to cancel petitioner's registration on ground that registration was obtained by means of fraud, wilful mis-statement or suppression of facts Apart from this reason, no other reason or particulars was disclosed. Petitioner filed a response belatedly after respondent had passed impugned order cancelling petitioner's GST registration retrospectively Petitioner had referred to transactions carried out by him and had quizzed respondent as to what was fraud in that transaction HELD: This was a clear case of violation of principles of natural

justice -Instant writ petition was to be entertained and impugned show cause notice as well as impugned order were to be set aside.

(ii) OTTIMO VISUALS Versus COMMISSIONER OF GST, DELHI WEST [W.P. (C) No. 6991 of 2023, decided on 16-08-2023]: Held: It is trite law that a show cause notice must clearly indicate the reasons for proposing the adverse action in order to enable the noticee to respond to the same.

5.9 In light of the foregoing facts, I hold that the cancellation of registration of the appellant is liable to be revoked subject to the verification by the jurisdictional Assistant/Deputy Commissioner of the facts and fulfillment of the conditions by the appellants."

Bare perusal of the aforesaid findings shows that the authority has come to the conclusion that without any reason in detail, cryptic order was passed. Once the authority has come to the conclusion that the order impugned in the appeal cannot be sustained, there was no justification for giving further direction. Section 107 of the GST Act does not empower the appellate authority to pass an order giving a second inning to the Revenue. Sub-section (11) of section 107 of the GST Act, provides that Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order.

In view of the above, part of the impugned order dated 28.03.2025 is set aside to the extent it remands the matter to the Assistant/Deputy Commissioner for verification of facts relating to the petitioner. Consequently, the impugned order dated 01.05.2025 is set aside.

It is further provided that the respondents shall be at liberty to act in accordance with law for taking fresh course of action, if available under the law.

The writ petition succeeds and is allowed.

(v) In the case of Shyam Traders *Versus* State of West Bengal cited in (2026) 44 Centax 262 (Cal.), the Hon'ble High Court has held that,

***"6.** Having heard the learned advocates appearing for the respective parties and upon consideration of the materials on record, the short question that falls for determination is whether the Appellate Authority, while exercising its powers under Section 107 of the said Act, is empowered to remand the matter to the Adjudicating Authority whose order was the subject matter of the appeal.*

Section 107(11) of the said Act reads as follows:

"The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the authority that passed the said decision or order:

. . .

***7.** A plain reading of the aforesaid provision makes it abundantly clear that the Appellate Authority is empowered to pass such order as it deems just and proper by confirming, modifying, or annulling the decision or order appealed against. The provision, however, unequivocally prohibits the Appellate Authority from referring the case back to the authority that passed the decision or order under appeal. Thus, the statute contemplates only three courses of action available to the Appellate Authority, namely, to confirm, modify, or annul the impugned decision or order. Where necessary, the Appellate Authority may undertake or cause to be undertaken such further inquiry as it considers necessary and thereafter adjudicate the matter on its own merits. The power to remand has been expressly excluded by the legislature.*

8. *In view of the express prohibition contained in Section 107(11) of the said Act, remand was not a course of action available to the Appellate Authority. Having accepted the petitioners' contention on merits and having recorded a finding that the excess Input Tax Credit had already been reversed, the Appellate Authority ought to have brought the appellate proceedings to their logical conclusion by appropriately modifying the demand. It could not have relegated the petitioners to the Adjudicating Authority for such purpose. The impugned direction of remand is, therefore, contrary to the express statutory mandate and cannot be sustained in law.*

9. *The contention advanced by the learned Additional Advocate General that the order rejecting the rectification application has merged with the Order-in-Appeal, thereby requiring the petitioners to pursue the statutory appellate remedy, does not merit acceptance. The defect in the Order-in-Appeal is not one relating to appreciation of evidence or determination of the merits of the controversy. Rather, it arises from the Appellate Authority having exercised a jurisdiction that the statute expressly withholds. A direction of remand issued in the face of the prohibition contained in Section 107(11) of the said Act is wholly without jurisdiction and is, consequently, a nullity in the eye of law. Such a jurisdictional infirmity cannot be cured, nor can the illegality be rendered immune from judicial scrutiny, merely because an application for rectification came to be rejected on the ground of limitation. It is well settled that the existence of an alternative statutory remedy does not constitute an absolute bar to the exercise of the writ jurisdiction of this Court, particularly where the impugned action is ex facie without jurisdiction or in patent violation of an express statutory provision. The submission advanced on behalf of the Revenue is, accordingly, rejected.*

10. *Accordingly, the operative portion of the Order-in-Appeal dated May 20, 2024, insofar as it directs remand of the matter to the Adjudicating Authority, is set aside.*

Consequently, the order dated September 16, 2025, rejecting the petitioners' application for rectification, is also set aside.

11. *The matter is remitted to the Appellate Authority (respondent no. 3) for fresh consideration. The Appellate Authority shall decide the appeal afresh on the basis of the findings already recorded in the Order-in-Appeal dated May 20, 2024, and shall pass a reasoned order strictly in conformity with the mandate of Section 107(11) of the said Act, without remanding or otherwise referring the matter to the Adjudicating Authority.*

. . ..

16.0 We further find that the JC (Appeals) has not passed an order annulling, modifying or confirming the demands raised, and in appeal before him, but has proceeded to give certain directions to the adjudicating authority whose order is in appeals before him. In his order portion the JC (Appeals) has passed an order that,

"Respondent sham verify the details/relied-upon documents in support of his stand and upon verification of relevant documents, if found in order, any such unwarranted demand to the extent found no longer sustainable shall stand deleted as discussed at Paras 9 and 10 supra."

17.0 In view of the express prohibition contained in Section 107(11) of the said Act, remand or referring back to the adjudicating authority was not a course of action available to the JC (Appeals). Having accepted the taxpayer's contention on merits, the JC (Appeals) ought to have brought the appellate proceedings to their logical conclusion by appropriately deciding the case finally as deem fit. The JC (Appeals) should not have relegated the tax payer appellant before it to the Adjudicating Authority once again for adjudication without making any effort to conclude the case

on merits on the basis of the material available on record. The impugned direction of the JC (Appeals) of remand is, therefore, contrary to the express statutory mandate and cannot be sustained in law.

18.0 On a bare perusal of the said order portion, we find that once the appellate authority has come to the conclusion that the order appealed against before cannot be sustained, there was no justification for giving further direction. Section 107 of the GST Act does not empower the appellate authority to pass an order giving a second chance to the adjudicating authority. Sub-section (11) of section 107 of the GST Act, provides that First Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order. The impugned order is therefore, rendered void, illegal and beyond jurisdiction, and is liable to be set aside.

19.0 Accordingly, in view of the above, we conclude that:

(i) *The JC (Appeals) has no power to remand the matter to the original adjudicating authority under Section 107 (11) of the CGST / KGST Act, 2017, giving directions for verification of the documents / evidences submitted before him, and further giving direction to delete the demand if found in order.*

(ii) *The Order passed by the JC (Appeals) without any final conclusion and issuing directions to the adjudicating authority amounts to referring the matter back and giving a second chance to the original authority, which*

is not allowed under Section 107 (11) has therefore such an order is not tenable in law, and is void, illegal and beyond jurisdiction.

(iii) Since the said order of the JC (Appeals) is illegal and ab initio void on jurisdiction, we are not looking into the aspect of monetary limits at this stage.

20.0 We find that the statutory appellate powers which permitted only confirmation, modification or annulment, where Appellate Authority, while dealing with order confirming tax, interest and penalty, directed parties to appear before Adjudicating Authority for further proceeding, such remand exceeded statutory appellate powers and Appellate Authority should decide issue within statutory limits. Where despite express statutory prohibition, Appellate Authority remanded matter to Adjudicating Authority for verification of documents and confirmation of amount of tax, and also giving further directions. The JC (Appeals) ought to have undertaken further inquiry itself and then adjudicate on merits, to its logical end instead of relegating parties to Adjudicating Authority. We therefore hold that the remand order of the JC (appeals) is contrary to the statutory mandate prescribed under Section 107 (11) of the CGST/KGST Act. The impugned direction of remand is, therefore, contrary to the express statutory mandate and cannot be sustained in law. Once the appeal authority is seen to have failed to exercise its jurisdiction in accordance with law, such an order cannot be sustained.

21.0 Accordingly, we pass the order as below:

The impugned Order-in-Appeal dated 9-10-2024 is set aside to the extent of the amounts referred back to the adjudicating authority for verification, and the appeals of

the Revenue is allowed by way of remand to the appellate authority i.e. JC (Appeals). The JC (Appeals) is directed to pass a fresh order after conducting necessary verification at its own level, and following the principles of natural justice.

(Order pronounced in open court on 8-9-2026)

Subramanya Rayaprol
Vice-President

Ramamoorthi Sriram
Member (Technical)

Date: 08.09.2026

GST APPELLATE TRIBUNAL
जीएसटी अपीलीय अधिकरण
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