Case Citation: (2026) taxcode.in 134 GSTAT

GSTAT

Court No. Court I

Filing No 20261082010000011

ABHAY MARBLES .....**Appellant**

Versus

COMMISSIONER, STATE TAX JAIPUR, COMMISSIONER OF STATE TAX & ORS. .....**Respondent**

Counsel for Appellant
CA DEVENDRA
CA DEVENDRA
CA DEVENDRA

Counsel for Respondent
NONE

Hon'ble Jaishree Ahuja, Member(Judicial)
Hon'ble Ram Niwas, Member (Technical)

ORDER

GOODS AND SERVICE TAX APPELLATE TRIBUNAL JODHPUR

COURT ROOM NO. I

Case No. 2026108/20100/0011

(Arising out of Order-in-Appeal No. 151/GST/JDR/25-26 dated 21.05.2025 passed by the Appellate Authority State Tax, Jodhpur)

Abhay Marbles .... Appellant

VILLAGE-SELWARA, REVDOR, SIROHI, Sirohi, Rajasthan, 307514

Versus

Commissioner of State Tax, Jaipur

.... Respondent

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Appearance:

Shri Devendra A Kataria, CA, Authorised Representative for the Appellant

None for respondents

CORAM:

HON'BLE Mrs. JAISHREE AHUJA, MEMBER (JUDICIAL),

HON'BLE Dr RAM NIWAS, MEMBER (TECHNICAL)

Date of Hearing: 17.08.2026

1. In the present case the appellant was issued defect notice dated 27.07.2026 by the Assistant Registrar directing to remove the defects mentioned below :

(i) Payment particulars of Pre-deposit amount (DRC-03 or DRC 03A or ledger) not uploaded.

(ii) Copy of Show Cause Notice (SCN) and Order-in-Original (OIO) not

Uploaded.

This case has come up before this Bench for admission with above defects.

Personal Hearing:

Ram

J

2.1 The Authorised Representative(AR) for the appellant during the personal hearing submits that copy of SCN and OIO have been uploaded and for payment particulars, details of payment with corresponding entry in electronic liability ledger are submitted.

The AR submits that the demand id shown in the electronic liability ledger is of the OIO and that on 30.10.2025, they have paid Rs 6864.00 central tax and Rs 6864.00 state tax against OIO demand id ZD080423026072U and that before filing appeal before the lower appellate authority on 31.01.2024, they had paid Rs 11441.00 central tax and Rs 11441.00 state tax against OIO demand id ZD080423026072U. He submits that total of predeposit while filing appeal before the appellate authority and while filing this appeal together is 20% of total tax which according to him takes care of 10% predeposit before the appellate authority and 10% predeposit before the Hon'ble tribunal.

2.2 The AR further submits that there was no demand id for APL-04 in the system because the Appellate Authority upheld the demand confirmed by the OIO and no additional demand in Order-in-Appeal was created.

3. We have considered the matter. The appellant has already uploaded the SCN and the OIO. The demand of tax involved in this case is Rs 183050.

4. The question for decision is whether the appellant has made payment of mandatory predeposit of 10% before filing this appeal under section 112(8) of the Central GST Act & Rajasthan GST Act (for brevity referred as 'the GST Acts') . It is seen that on 31.1.2024 the appellant had made payment of rupees 22882 as pre deposit for filing appeal to the appellate authority under section 107(6) and that on 30.10.2025, the appellant made payment of Rupees13728 from electronic credit ledger(rupees 6864 as central tax and rupees 6864 as state tax) as pre deposit for filing this appeal before the tribunal under section 112(8) of the GST Acts. The appellant submits that the total of the amounts paid of Rs 22882 and 13728 comes to rupees 36610 which is 20% of the tax of rupees183050 involved in this appeal and according to them this should take care of 10% pre deposit before appellate authority and 10% pre deposit before this tribunal. This view of the appellant is not correct as discussed below.

5. From the records it is seen that the appellant had made payment of pre deposit of 12.5% under section 107 (6) of the GST acts while claiming benefit of notification No. 53/2023 dated 2.11.2023 in the appeal filed before the appellate authority. For claiming benefit of the notification No. 53/2023 dated

Ram

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2.11.2023 the pre deposit payable was 12.5% and not 10%. Hence the amount of rupees 22882 paid by the appellant on 31st January 2024 which is 12.5% of total tax is only for filing appeal before the appellate authority and out of this no amount is available for adjustment while calculating the pre deposit to be made for filing appeal before this tribunal which is 10%. We make it clear that at this stage we are not making any comments on the appellant's eligibility of notification No. 53/2023 dated 2.11.2023. This order is confined only to decision on the the issue whether the defects in the defect notice referred above are rectified. Now this leaves only amount of rupees 13728 paid by the appellant by utilizing electronic credit ledger. So now the only question remains is to see whether this payment of rupees 13728 from electronic credit Ledger by the appellant is sufficient compliance of section 112(8) of the GST Acts.

6. On the question whether pre deposit can be made by utilising electronic credit Ledger or whether it has to be paid in cash only, there are conflicting decisions of Hon'ble High Courts. The Hon'ble High Court of Orissa in Judgement dated 7.10.2021 in WP(C) Nos. 23508 & others of 2021 ordered that pre deposit cannot be paid from electronic credit Ledger but it has to be paid by cash. On the other hand, the Hon'ble High Court of Gujarat relying on Bombay High Court judgement in Oasis Realty and CBIT&C Circular F.No. CBIC-20001/2/2022-GST dated 6.7.2022, in judgement dated 17.10.2024 in SCA No. 10504 of 2023 in M/s Yasho Industries Ltd vs. UOI & ANR considered valid the payment of predeposit utilizing the credit ledger in that particular case. The logic in Yasho Industries essentially appears to be that the amount of predeposit is equated with payment of tax . However the situation and material facts of this appeal before us are different from that of Yasho Industries.

7. In this appeal the demand of tax confirmed by the lower authorities pertains to non-discharge of tax liability by reverse charge which was not the case in Yasho Industries. According to section 49(4) of the GST Acts the electronic credit Ledger can be used for making payment of output tax only. It cannot be used for making any other payments like interest, penalty, fees or any other amount payable under the GST Acts. The CBIC circular dated 6 July 2022 also conveys this view and rightly so. Hon'ble High Court in Yasho Industries also relied upon this CBIC Circular. Once it is held that for payment of tax on reverse charge basis payment has to be made in cash, the payment of pre-deposit for such reverse charge matters also has to be paid in cash. According to the definition of output tax in s. 2(82) of the GST Acts, any tax payable on reverse charge basis is excluded from the definition of output tax. Therefore the pre deposit under section 112(2) for the cases of demand under reverse charge basis, which is the case here, electronic credit Ledger cannot be used. It has to be paid in cash.

Ram

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This brief analysis is made only to stress the point that in appeals filed againt demands confirmed for cases of payment of tax under reverse charge method electronic credit Ledger cannot be used.

8. In view of above, the amount of rupees 13728 paid by the appellant utilizing electronic credit Ledger is not to be considered as payment of mandatory pre deposit under section 112(8) of the GST Acts. The appellant is directed to make payment of pre deposit equal to 10% of tax disputed, that is, rupees 18305 in cash by utilizing electronic cash Ledger etc. within 3 weeks from the date of communication of this order, failing which this appeal shall stand rejected for non compliance of mandatory provisions of section 112(8) of the GST Acts. The registry to report compliance thereafter within one week of expiry of the period of 3 weeks for payment allowed as above. Ordered accordingly.

GST APPELLATE TRIBUNAL
जीएसटी अपीलीय अधिकरण

(Jaishree Ahuja)

(Ram Niwas)

Dated: 17.08.2026