GSTAT

Court No. Court II

APL/50/HYD/2026

MD QAMARUDDIN KHAN **.....Appellant**

Versus

YRK CONSTRUCTIONS, PARTNER, PLOT NO-103 A AND B BHAVANA ENCLAVE MADHVAPURI HILLS ROAD NO 7 PJR COLONY CHANDANAGAR HYDERABAD TGRAN 500050 **.....Respondent**

Counsel for Appellant
SHRI K. SAI PRASAD, SUPERINTENDENT, HYDERABAD GST
SHRI K. SAI PRASAD, SUPERINTENDENT, HYDERABAD GST
SHRI K. SAI PRASAD, SUPERINTENDENT, HYDERABAD GST

Counsel for Respondent
NONE
NONE

Hon'ble A P Ravi, Member(Judicial)
Hon'ble Duvvuri Krishna Srinivas, Member (Technical)

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

whether remand order : No

Order reference no. : ZN560360926000220H **Date of order :** 17/09/2026

1.	GSTIN/Temporary ID/UIN -	
2.	Appeal Case Reference no. - APL/50/HYD/2026	Date - 20/03/2026
3.	Name of the appellant - Md Qamaruddin Khan , qamaruddinkhan.irs@gov.in , 8587964374	
4.	Name of the respondant - 1. YRK CONSTRUCTIONS , yebuperli_2020@yahoo.com , 9603840330	
5.	Order appealed against -	
	(5.1) Order Type - Registration Order	
	(5.2) Ref Number - ZD360724081895S	Date - 14/10/2021

6.	Personal Hearing - 17/09/2026 04/09/2026 14/08/2026 06/08/2026 03/07/2026
7.	Status of Order under Appeal - Modified – Order under Appeal is modified
8.	Order in brief - The First Appellate Authority has erred in not considering interest, late-fee and penalty, as contemplated under Rule 23(1) of CGST Rules, 2017 and consequently, the order is modified to that extent.
Summary of Order	
9.	If demand order then whether demand quantified: Yes

Section-I

Particulars	Central tax		State/UT tax		Integrated tax		Cess		Total	
	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount
1	2	3	4	5	6	7	8	9	10	11
(a) Tax	0		0		0		0		0	0
(b) Interest	0		0		0		0		0	0
(c) Penalty	0	5000	0	5000	0		0		0	10000
(d) Fees	0		0		0		0		0	0
(e) Others										0
(f) Refund	0		0		0		0		0	0

10.	For Other orders and Demand orders which are not quantified:	
Issues as raised by proper officer	Issues as determined by Appellate/Revisional authority	Order by GST Appellate Tribunal
Revocation of registration	The Appellate Authority allowed the appeal and ordered restoration of registration, primarily on grounds of providing relief to the taxpayer, without adequately verifying whether mandatory conditions such as filing of pending returns and payment of tax dues were fulfilled.	Penalty imposed Rs.10,000/-

Place :HYDERABAD

Date : 17.09.2026

Signature

HYDERABAD A P Ravi

Designation : Member

Jurisdiction :Hyderabad

ORDER

FINAL ORDER No.03/COURT-II/HYD/2026

Date of Hearing: 04.09.2026

Date of Pronouncement:17/09/2026

Per: A P Ravi, Judicial Member

1. The Department has preferred the present appeal against the order passed by the First Appellate Authority in Order?in?Appeal No. HYD?GST?RRC?AAP1?062?21?22 dated 14th October, 2021. The appeal is filed under Section 112(3) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "Central Act"), read with Section 112(4) thereof. For brevity and convenience, any reference to the "Act" or the "Central Act" shall, unless the context otherwise requires, be understood to include the State Goods and Services Tax Act, 2017 (hereinafter the "State Act"), the provisions of which correspond with and are intended to operate concurrently with those of the Central Act.
2. The Appellant–Department (hereinafter referred to as "the Appellant"), being aggrieved by the order impugned herein, has preferred the present appeal. The principal contention of the Appellant is that the FAA, while passing each of the impugned orders, had erred in allowing the appeal solely on the basis of verification of payment of taxes and filing of returns without payment of interest, penalty and late fee in respect of the said returns. It is the submission of the Appellant that the FAA ought not to have allowed the appeal without ensuring that interest, penalty and late fee, as applicable, has been paid. Instead, the FAA had only pressed upon the verification of payment of taxes and filing of the returns. The Appellants have therefore contended that the order impugned in not legal and proper and that it has been prayed that this Tribunal may, after taking into consideration their submissions, pass such orders and or other orders as may be deemed fit.
3. The Respondent, engaged in the business of Infrastructure Development, being registered with the GST department had defaulted in submitting their GSTR-3B returns for a continuous period of SIX months and consequently a show cause notice proposing to cancel their registration was issued on 09.01.2020. After due process, the Adjudicating Authority (AA) had vide Order No. ZA36120019258X dated 12.11.2020, cancelled the registration with effect from 12.11.2020. Upon filing of appeal, the FAA had considered the fact that the respondent had immediately on issue of the said show cause notice had filed all their returns and that, based on the submissions made, found it appropriate to allow the appeal. However, the FAA, while allowing the appeal and revoking the cancellation, had exercised caution and directed the proper officer to verify the correctness of the

claim of the respondent herein that the returns had been filed and taxes paid for the relevant period.

4. The appellant herein contends that the FAA had not considered the requirements of Rule 23(1) of the Central Goods & Services Tax Rules, 2017 (the Rules) and the proviso to the said rule. It is their grievance that the FAA ought to have ensured that not only the taxes is paid, but also should have considered the payment of interest, late fee and penalty. To this extent, the Appellants are of the view that the order impugned is not legal and proper and consequently it is prayed, as in their DRC-07 submitted, that the impugned order be set aside and restore the cancellation order passed by the Proper Officer.
5. The Learned Department Representative (DR) Shri. Sai Prasad, appearing on behalf of the Appellants submits that the respondents have not paid the appropriate interest, late fee and penalty as contemplated under proviso to Rule 23(1) of the Rules and that order impugned is bad in law and hence merits to be set aside.
6. None had represented for the respondents. Despite being afforded three separate opportunities to appear and be heard, the respondents failed to mark their presence and did not file any cross?objections or tender any material in their defence. In the circumstances, and applying the maxim *audi alteram partem* which presupposes a chance to be heard but does not oblige the Tribunal to wait indefinitely for dilatory conduct, this Tribunal is obliged to proceed. Having given the respondents adequate opportunity, their persistent non?appearance and failure to place any material before the Tribunal disentitles them to any procedural advantage; accordingly, *ex debito justitiae,* -reason of duty of justice- the appeal shall be decided on its merits on the basis of the record and the documents produced by the Appellant?Department.
7. The short matter to be decided in the instant appeal is whether the FAA was within his powers to allow the appeal filed by the Respondent herein, without ensuring or causing verification that the interest, late fee and penalty are paid by them along with the taxes for the relevant period?
8. Heard Ld. DR and also noted the arguments advanced by him as well as their grounds of the appeal and other documents filed by them.
9. The crux of the issue is to decide whether the FAA had exceeded his jurisdiction in not acting within the parameters of Rule 23 of the Rules and restored the registration without causing any proper verification. Before we proceed to decide the issue, it is imperative to note the provisions of Rule 23(1) of the Rules. The relevant portion of the said rule is reproduced below for ease of reference:

Rule 23. Revocation of cancellation of registration. -

(1) A registered person, whose registration is cancelled by the proper officer on his own motion, may 1 [subject to the provisions of rule 10B] submit an application for revocation of cancellation of registration, in FORM GST REG-21 , to such proper officer, within a period of thirty days from the date of the service of the order of cancellation of registration 2 [or within such time period as extended by the Additional Commissioner or the Joint Commissioner or the Commissioner, as the case may be, in exercise of the powers provided under the proviso to sub-section (1) of section 30 ,] at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that no application for revocation shall be filed, if the registration has been cancelled for the failure of the registered person to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns:

Provided further that all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of thirty days from the date of order of revocation of cancellation of registration:

Provided also that where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of thirty days from the date of order of revocation of cancellation of registration].

10. For the record, the liability arising from the returns under consideration is not confined to the principal tax alone but expressly extends to interest, late fee and penalty. These ancillary components constitute substantive obligations flowing from the statutory and regulatory scheme governing return filing and tax payment, and are therefore integral to the correct adjudication of any dispute about the returns.
11. The First Appellate Authority, however, approached the appeals solely on the basis of verification of tax payment and filing of returns, without any discernible consideration of the proviso to Rule 23(1) of the Rules or of the statutory provisions which mandate assessment and recovery of interest, late fee and penalty. The omission is not a mere oversight of a procedural nicety: it goes to the root of the substantive liability and the completeness of the adjudicatory exercise.
12. By failing to advert to and apply the proviso to Rule 23(1) and the attendant statutory provisions, the FAA exceeded its jurisdiction and committed both a jurisdictional and substantive error. The impugned order is therefore vitiated by illegality and incompleteness, inasmuch as it fails to determine or preserve the State's claim to recover interest, late fee and penalty which remain live and enforceable liabilities.
13. Be that as it may, where the amounts claimed are effectively admitted by the respondents, the Appellant was obliged to pursue recovery by resort to the statutory machinery provided under Section 79 of the Act. Interest, late fee and penalty, once shown to be due and owing, are enforceable public dues; the statutory scheme accordingly vests the Appellant with specific powers to recover such sums administratively and compulsorily.
14. Section 79 supplies the appropriate and exclusive mechanism for recovery of admitted tax arrears and ancillary sums, and must be invoked and exhausted before this Tribunal is asked to exercise its discretionary jurisdiction in aid of collection. Failure to invoke that remedy, and instead to seek relief in this Forum, is inconsistent with the orderly operation of the recovery regime and risks circumvention of the statutory process.
15. The Appellant has contended that the FAA ought to have ensured that the respondent shall, apart from tax, pay interest, late fee and penalty, as contemplated under Rule 23 of the Rules. We observe that the FAA had, while allowing the appeal filed under Section 107 of the Act, had clearly directed the proper officer to cause necessary verification of payment of tax and filing of returns. The only provision that

envisages such a requirement is the provisions of Rule 23 and therefore, the Appellants have sought for interest, late fee and penalty. We are of the considered opinion that the intent of the FAA from the language adopted in the order impugned appears, though has not directly referred Rule 23 of the Rules, that the amounts as indicated in Rule 23 of the Rules are to be collected. While the Respondent had admittedly paid the tax alone and filed the returns, the Appellants were at the liberty to collect the interest and late-fee as per existing provisions i.e. Section 50 and Section 47 of Act, respectively. Further as provided in Rule 23 the respondent is liable in addition to the above, for penalty. Accordingly, we deem it appropriate to impose a penalty of Rs.10,000/- under Rule 23 of the Rules.

16. In view of the foregoing discussion, we hold that the FAA had erred in ignoring the provisions of Rule 23(1) of the Rules, which necessitates that interest, penalty and late fee also be paid consequent to the payment of admitted tax liabilities. Therefore, the order impugned is held to modified to that extent. The issue framed in paragraph 7 above is answered accordingly.
17. On the above terms, the appeal is disposed of.
18. No order as to costs.

(Order pronounced in the open court on 17.09.2026)

(A P Ravi)

(Duvvuri Krishna Srinivas)

Dated: 17.09.2026