GOODS AND SERVICES TAX APPELLATE TRIBUNAL
COIMBATORE BENCH, COIMBATORE

COURT NO.1

Appeal No. APL/9/CMT/2026

SKANTHA MAATHA METALS …. Appellant
..

Versus

SM SARASWATHI,
O/o Additional Commissioner, (Review Appeal Revision),
Govt of Tamil Nadu. …. Respondent

Authorised Representative for Appellant	**Authorised Representative for Respondent**
Mr.S. Durairaj, Advocate	Shri. A Arunachalam, Authorised Representative (State)

Hon'ble Praveen Kumar Jain, Member (Judicial)
Hon'ble M MATHEW JOLLY, Member (Technical)

ORDER

Date of Order: 17.09.2026

1. As per Office Order No. 3/GSTAT//PB 2026 dated 14-05-2026 issued from file No. GSTAT/Benches/PB/2026/157, the Appeal No. APL/9/CMT/2026 was placed before the Division Bench for deciding whether a Question of Law is involved within the meaning of Section 109(8) of the CGST Act, 2017, so as to determine whether the appeal is required to be heard by a Single Member or should be heard together by one Judicial Member and one

Technical Member (Division Bench). The appeal was listed on 10-09-2026 for hearing on Question of Law.

2. The Ld. Advocate of the Appellant uploaded the Written submissions on the GSTAT portal on dt.04.09.2026 (Sr. No. 13) stated that vide para 5 is reproduced hereunder:

"…… (i) **Whether there is jurisdiction under Section 74 in the absence of allegation of fraud/wilful-misstatement/suppression of facts?**

(ii)Whether the proceedings are sustainable since the copy of the report, which is a relied upon document, was not provided?

(iii) Whether the proceedings are sustainable since M/s Parvathi Traders, the alleged non-existent supplier, was not impleaded*?*

2.0. The DRC-07/Assessment Order dated 8.8.2022 was issued by confirming the liability on the ground that there is discrepancy in the e-way bill TN32M0945, which is not raised in the DRC-01/show cause notice dated 28.4.2022. As per Section 75(7), no demand shall be confirmed on the grounds other than the grounds specified in the notice. Therefore, the Appellant prays for favourable answers for the following question of law.

(i) Whether the DRC-07/Assessment order dated 8.8.2022 is sustainable for not following Section 75(7)?

3.0. The appeal was filed under Section 107 on 5.11.2022. As per Section 107(13), the appeal ought to be disposed within one year .i.e. on before 4.11.2023, since there is no stay in passing the order. However, the impugned order APL-04/Order in Appeal was passed on 26.5.2025 without justifying the delay. Therefore, the Appellant prays for favourable answers for the following question of law.

(i) Whether APL-04/Order in Appeal dated 26.5.2025 is time-barred since it was passed beyond the period specified in Section 107(13)?

4.0. The Appellate Authority has upheld the demands on the grounds that documents were not produced. The documents are materials inward and outward registers, stock register, weigh bridge receipts for empty vehicles, outward supply invoices with e-way bills generated, inward and outward supply ledgers, ITC ledgers, stock accounts, trial balance/profit and loss account, weighment receipts for inward and outward supplies for the physical movement of goods, bank statements for the period from 2019-20 onwards for which the tax payer had actually paid and received the considerations for the inward and outward suppliers reported in their monthly return, lorry receipts in case of goods sent through transport offices, proof of payment made and received on freight charges, income tax returns filed for the period from 2019-20 with form 3CD forms, annual returns along with auditors reconciliation statement for period from 2019-20 onwards, freight paid proof, stock inward register and any other documents to substantiate their replies for doing a genuine business and not indulged in bill trading activity. Non production of these documents is not an allegation in the show cause notice. Therefore, the Appellate Authority has confirmed the demand on other grounds without following 2 nd proviso to Section 107(13). Consequently, the Appellant prays for favourable answers for the following question of law.

(i) Whether APL-04/Order in Appeal dated 26.5.2025 is sustainable in as much as the Appellate Authority has upheld the demands on new grounds without issuing the notice under 2nd proviso to Section 107(13)?

5.0 In view of the above reasons, it is prayed that the appeal may kindly be heard together by one Judicial Member and one Technical Member as stated in Section 109(8) of CGST Act, 2017."

3. The Respondent has orally stated that there is no Question of Law involved in the present appeal.

ANALYSIS & FINDINGS

4. Heard. The Ld. Advocate of the Appellant and Authorised Representative of the State on the Question of Law.

5. Ld. Advocate of the Appellant mentioned the Question of Law and he stated that the Question of Law involved in the present appeal.

6. Hon'ble Karnataka High Court in M/s. Atria Convergence Technologies Ltd. v. Deputy Commissioner of Commercial Tax, 2025 (2) TMI 883, wherein it has been held, drawing upon Salmond's Jurisprudence, that a question is ordinarily one of law where its answer is to be found by reference to the statute, and that this would also extend to situations involving the interpretation of statutory provisions bearing upon the outcome of the proceedings.

With respect, Section 109(8) of the CGST Act does not use the words "substantial question of law". It provides that an appeal within the prescribed monetary limit and which "does not involve any question of law" may be heard by a Single Member, and that in all other cases it shall be heard together by one Judicial Member and one Technical Member. The words used by Parliament are "any question of law"

7. In the CGST Act 2017, the "Question of Law" is not defined. Hence the deciding principles in the present appeal shall be decided as it requires the interpretation of legal principles, statute or precedent. If any interpretation, if any, of the legal principles, statute or precedence is involved, then the Question of Law involved and shall be decided together by one Judicial Member and one Technical Member (Division Bench). First of all, to decide the Question of Law involved or not in the present appeal, there must first be a foundation for it in the Memorandum of Appeal, written submissions submitted by parties Appellant and Respondent.

8. In this appeal, the appellant has raised 6 Questions of Law that have been listed in paragraph 2 above. The first question raised is whether a notice can be issued under section 74 (1) when it does not contain an allegation of fraud/wilful-misstatement/suppression of facts. The basic foundation of Section 74 of the CGST Act 2017 is that a notice under Section 74 (1) can be issued only if there is fraud/wilful-misstatement/suppression of facts by the tax-payer, and interpreting the circumstances of the non-payment of tax to determine so is a question of law.

9. Another question raised by the appellant is whether the Order-in Appeal passed by the Appellate Authority is violative of Section 107 (13) of the CGST Act 2017 as it was issued more than one year after filing of appeal. Since this question also involves the interpretation of the statute, there is no doubt that a question of law has been correctly raised by the appellant.

10. Considering the above discussion, we are of the view that the submissions of the Ld. Advocate of the Appellant regarding the Question of Law involved in the present appeal is sustainable. Submission placed by the Ld. Authorised Representative of the State is not sustainable.

11. In view of the foregoing, this Bench is of the considered opinion that the present appeal does involves a Question of Law within the meaning of Section 109(8) of the CGST Act, 2017.

12. A Question of Law is involved in this appeal. Hence, the appeal shall be heard together by one Judicial Member and one Technical Member (Division Bench).

13. The Registry is directed to list the appeal for hearing on 29.10.2026 before one Judicial Member and one Technical Member (Division Bench).

14. List the Appeal No. APL/9/CMT/2026 for hearing on merits on 29-10-2026.

M Mathew Jolly
Member (Technical)

Praveen Kumar Jain
Member (Judicial)

DATED 17.09.2026