GOODS AND SERVICES TAX APPELLATE TRIBUNAL
ERNAKULAM BENCH

APPEAL NO: APL/21/ERN/2026

BOS NATURAL FLAVOURS PVT LTD

..... Appellant

Versus

THE COMMISSIONER OF KERALA STATE GST, THIRUVANANTHAPURAM **..... Respondent**

For Appellant
Broono P D, Advocate

For Respondent
Anil Gopinath, AR

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

……

FINAL ORDER NO. 09/EKM/KERALAM/2026

Date of Hearing: 10-8-2026
Date of Order: 28-9-2026

Order per: Shri Ramamoorthi Sriram, Member (Technical)

1.0 The present Appeal (APL/21/ERN/2026) has been preferred by M/s Bos Natural Flavors (P) Ltd. ('Appellant') against Order-in-Appeal No. OIA/JCEKM/2020/GSTA 150 dated 27/5/2024 passed by the Joint Commissioner (Appeals), SGST Department, Ernakulam. (Appellate Authority)

2.0 Brief Facts of the Case :

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2.1 An Appeal had been filed by M/s. Bos Natural Flavors Private Limited, GSTIN: 32AABCH6957R1ZY before the Joint Commissioner (Appeals), SGST Department, Ernakulam (Appellate Authority) challenging Order No. OR/GST/W/45/19- 20 dated 02.03.2020 of the State Tax Officer, Squad No.V, Mattancherry.

2.2 The Appellate Authority vide Order-in-Appeal No. OIA/JCEKM/2020/GSTA 150 dated 27/5/2024 passed the following order.

- The Appeal is found defective for non-payment of additional Court Fee as per Section 76 of the Kerala Court Fees and Suits Valuation Act 1959.
- Defect notice was issued granting opportunity to cure the defect and proposing to reject the appeal on failure to do so was duly served.
- The defect was not cured and no objection had been raised to the proposal contained

  in the notice.
- For the afore mentioned reasons the appeal is dismissed without going into merits.

2.3 Being aggrieved by the said order, the appellant has filed the present appeal before this Tribunal. Though the Appellant has made detailed submissions on merits and so has the Respondent, we find that in terms of section 113(1) of the CGST / KGST Act:

> *The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the Appellate Authority, or the Revisional Authority or to the original*

adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision after taking additional evidence, if necessary.

2.4 Thus in this case when the Appellate Authority has dismissed the appeal on purely on the grounds of non-payment of additional court fees, we have to confine ourselves to these grounds and are precluded from hearing the matter on merits. Accordingly, we are confining ourselves to the grounds of the Appellant and the Respondent on the non-payment of court fees, without commenting on the merits of the case.

3.0 Grounds of Appeal / Submissions of the Appellant:

3.1 The first appeal in this case was filed on 05-05-2020 as such the Appellant is not liable for the additional court fees made applicable to GST appeals before Kerala GST Appellate Authority as per Notification No. SRO No. 949/2021 dated 26th November 2021. But the Appellate Authority issued defect notice demanding additional Stamp Duty.

3.2 In response to the notice the Appellant appeared through the Authorized Representative and explained the non-applicability of KLFB in this case.

3.3 Thereafter the First Appellate Authority dismissed the appeal holding that the defect has not cured so far, without any further intimation, for a non-GST grounds.

3.4 In case the Tribunal finds that additional court fees are leviable as per Section 76 of the Kerala Court Fees and Suits Valuation Act 1959, they may be permitted to pay the same and the matter may be remanded to the Appellate Authority for a decision on merits.

3.5 Shri Broono P D , Advocate appeared before us on behalf of the appellant and reiterated the above submissions.

4.0 Submissions of the Respondent / Revenue

4.1 The appeal before the Joint Commissioner (Appeals) was defective due to non-payment of additional Court Fees under Section 76 of the Kerala Court Fees and Suits Valuation Act, 1959. Despite formal defect notices granting opportunity, the Appellant failed to cure the defect or submit objections. The first Appellate Authority rightly dismissed the appeal vide Order No. OIA/JCEKM/2020/GSTA 150. Court fee levies under State legislation govern filings before State Appellate Authorities.

4.2 Delegated legislation or Government Notifications imposing or enhancing additional court fees are strictly prospective. Already there is an SRO existing and the rate is applicable as per the previous SRO.

4.3 Shri Anil Gopinath, learned AR appeared for the respondent /Revenue and reiterated the above submissions.

5.0 Discussion and findings.

5.1 While the Appellants have contended that their appeal was filed on 5/5/2020 and as such they are not liable to pay the additional court fees which was made applicable as per Notification SRO No 949/2021 dated 26/11/2021, the learned AR has submitted that even prior to the SRO No 949 / 2021, there was already an existing SRO as per which the additional court fees would still be payable as per the rate applicable as per the previous SRO.

5.2 We find that the applicability of court fees in respect of GST first appeals before the SGST authorities is well settled in view of the decision of the honourable High Court of Kerala dated 12/2/2020 in the case of Akay Flavours and Aromatics Pvt Ltd Versus Asst. Commissioner State Goods and Service Tax Department And Others - 2020 (8) TMI 208 - KERALA HIGH COURT. Since the above judgement was delivered much before 5/5/2020, we have no doubt regarding the levy of additional court fees in the instant case.

6.0 We also find that the JC (Appeals) has raised the defect of non-payment of fees under Section 76 of the Kerala Court Fees and Suits Valuation Act, 1959. However, we find that the appeals before the first appellate authority, i.e. the JC (Appeals) in the present case is filed under Section 107 of the CGST / KGST Act. As per the Section 107 of the CGST / KGST Act, 2017, it reads as,

> ***107. Appeals to Appellate Authority.***
>
> *(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.*

(2) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.

(3) Where, in pursuance of an order under sub-section (2), the authorised officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.

(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.

(5) Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.

(6) No appeal shall be filed under sub-section (1), unless the appellant has paid-

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

*(b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, [1]**[**subject to a maximum of [3]**[**twenty**]** crore rupees**]**, in relation to which the appeal has been filed.*

[5]***[Provided** that in case of any order demanding penalty without involving demand of any tax, no appeal shall be filed against such order unless a sum equal to ten per cent. of the said penalty has been paid by the appellant.**]***

(7) Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.

(8) The Appellate Authority shall give an opportunity to the appellant of being heard.

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6.1 We find that for filing appeals before the first appellate authority under Section 107 of the CGST/KGST Act, 2017, the conditions pertaining to payment of fees, are only limited to Section 107 (6) ibid, wherein there is no mention of any other fees to be paid at the time of filing the appeals.

6.2 Having said so, our attention is also drawn to the Judgement of Hon'ble Kerala High Court wherein the imposition of fees under Section 76 of the Kerala Court Fees and Suits Valuation Act, 1959, to the appeals filed before the JC (Appeals) or any first appeals authority of the Kerala State is proper and not discriminatory. This levy of fees and the responsibility to collect at the time of filing is binding on the State Authorities including the Kerala State GST. The JC (Appeals) of the Kerala State GST as a public Servant is bound by the Section 76 of the Kerala Court Fees and Suits Valuation Act, 1959. We further hold that the appellant /Taxpayer while filing appeals should have regard for the local State taxes / fees payable as per the State legislation of the State in which the taxpayer/appellant is conducting business and there is no doubt that they are bound by it. As the appellate authority is from the Kerala State GST Department, and the appeals filed before them are covered by Section 76 of the Kerala Court Fees and Suits Valuation Act, 1959, the appellant/taxpayer who are under the State Jurisdiction for assessment and appeals are bound by the respective State legislations and should comply with such State laws in totality. However, we also find that the appellant has submitted their undertaking for payment of fees before the first appellate authority of the Kerala State GST, as levied by the Kerala State.

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7.0 In view of the above, we pass the following order:

(i) The appellant has voluntarily undertaken before us to pay the fees as required under Section 76 of the Kerala Court Fees and Suits Valuation Act, 1959.

(ii) The impugned Order in Appeals is set aside. The matter is remanded to the first appellate authority to decide the case on merits within a period of three months from the date of uploading of this order on GSTAT portal after following the principles of natural justice.

Appeal disposed off on above terms.

Order pronounced in open court on 28/09/2026.

Subramanya Rayaprol
Vice-President

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Ramamoorthi Sriram
Member (Technical)

Date: 28.09.2026

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