GOODS AND SERVICES TAX APPELLATE TRIBUNAL

BENGALURU BENCH,

DIVISION BENCH – COURT NO. 3

APPEAL No: APL/143/BUR/2026

M/s Groma Infrastructure Limited, Raichur **……..Appellant**

Versus

Commissioner of Commercial Taxes,

Commercial Taxes Department, Government of Karnataka **…….Respondent**

Counsel for Appellant
Adv Sreenivasa Reddy
M/s. YSR & Associates
Advocates and Tax Consultants

Counsel for Respondent
Smt. Priya Basappa
Departmental Representative

Hon'ble Shri Prabhakaran P.M., Judicial Member

Hon'ble Shri Ravi Jesuraj S., Technical Member (State)

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the Goods and Services Tax Appellate Tribunal

Whether Remand Order: No

1.	GSTIN	29AADCM4626Q1ZU
2.	Appeal Case Reference No.	Appeal/BUR/143/2026
	Appeal Date	02-05-2026
3.	Name of the Appellant	M/s Groma Infrastructure Limited, (formerly MVPR Infrastructure Limited),

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		H No. 1-11-54/9, Opposite Kodandarama Temple, Vidyabharathi School Road, Prashanth Colony, Raichur – 584101 Through M/s. YSR & Associates, Advocates and Tax Consultants, Hyderabad.
4.	Name of the Respondent	Commissioner of Commercial Taxes, Karnataka Through Departmental Representative, State Commercial Taxes Department
5.	Order Appealed Against	Order-in-Appeal No. GST: AP:445/2024-25 passed by the Joint Commissioner of Commercial Taxes (Appeals), Kalaburagi
	Order Type	Order-in-Appeal under Section 107(11), dismissing the appeal against the Order-in-Original
	Reference No	ZD2902260984324 (arising from Order-in-Original Ref. No. ZD290824047815V dated 13-08-2024).
	Order Date	19-02-2026
6.	Personal Hearing	16-09-2026 and 23-09-2026
7.	Order in Brief	Appeal partly allowed. Order-in-Appeal set aside: dismissal without a hearing contrary to Section 107(8); delay of 21 days condoned; the signatory held the company's authority; nothing "admitted" and no pre-deposit payable under Section 107(6). On the merits: interest on differential tax paid through DRC-03

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<table>
<tr><td></td><td></td><td colspan="2">confirmed; cum-tax plea under Rule 35 rejected; GSTR-3B interest reduced to CGST ₹418 and SGST ₹419.</td></tr>
<tr><td colspan="4">Summary of Order</td></tr>
<tr><td>8.</td><td>If Demand order then whether Demand Quantified</td><td colspan="2">Yes.
Tax: Nil; interest: ₹43,94,495; penalty: Nil. Total: ₹43,94,495.</td></tr>
<tr><td>9.</td><td colspan="3">For Other Orders and Demand Orders which are Not Quantified</td></tr>
<tr><td></td><td>Issues as Raised by Proper Officer</td><td>Issues as determined by Appellate/ Revisional Authority</td><td>Order by GST Appellate Tribunal</td></tr>
<tr><td></td><td>Interest on differential tax arising from enhancement of GST rate from 12% to 18%, and interest on delayed payment of tax through GSTR-3B.</td><td>Appeal dismissed on grounds of delay, lack of authorisation and non-payment of pre-deposit, without examining merits.</td><td>Delay condoned, authorisation defect cured and pre-deposit held not payable. Interest on differential tax upheld; GSTR-3B interest reduced after allowing credit for interest already paid. Appeal partly allowed.</td></tr>
<tr><td>10.</td><td colspan="3">If remanded with Directions: Not applicable</td></tr>
</table>

Place: Bengaluru **Date: 06-10-2026**

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FINAL ORDER

(Per: Ravi Jesuraj S., Technical Member (State) for the Bench)

A. INTRODUCTION

1. The question involved in this appeal is whether the First Appellate Authority was right in dismissing the appellant's first appeal without hearing it and without deciding it on the merits. The First Appellate Authority gave three reasons: that the appeal was filed late, that the officer who signed it had no authority from the company, and that the appellant had not paid an amount it had admitted. If the First Appellate Authority was not right, the further question is whether, and to what extent, the appellant is liable to pay the interest confirmed against it for the financial year 2021-22.

2. The appellant, M/s Groma Infrastructure Limited (formerly MVPR Infrastructure Limited), is a public limited company registered at Raichur under GSTIN: 29AADCM4626Q1ZU. It executes works contracts, such as lift irrigation and electrical works, for Government undertakings in Karnataka.

3. The appellant challenges Order-in-Appeal No. GST: AP:445/2024-25 dated 19.02.2026 (Ref. ZD2902260984324) ("the Order-in-Appeal") of the Joint Commissioner of Commercial Taxes (Appeals), Kalaburagi ("the First Appellate Authority"). By that order, the First Appellate Authority dismissed the appellant's appeal against Order No. ACCT/Audit-4/KLB/2024-25 dated 13.08.2024 (Ref. ZD290824047815V) ("the Order-in-Original"), passed

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under Section 73(9) by the Assistant Commissioner of Commercial Taxes (Audit)-4, Kalaburagi ("the Adjudicating Authority").

4. The Order-in-Original confirmed no tax and no penalty. It confirmed interest alone, ₹44,46,989 in all, under two heads: interest on differential tax paid late through Form GST DRC-03 after the rate of tax on the works contracts service provided by the appellant rose from 12% to 18% on 01.01.2022; and interest on tax paid late in cash with the returns in Form GSTR-3B.

5. For the reasons that follow, we hold that none of the three threshold grounds can stand; that the interest on the differential tax is payable in full; and that the interest on the GSTR-3B payments must be reduced to the amount the appellant has shown to be outstanding. The appeal succeeds in part.

6. The appeal lies under Section 112 of the Central Goods and Services Tax Act, 2017 ("the CGST Act") and the Karnataka Goods and Services Tax Act, 2017 ("the KGST Act"). The two Acts are in the same terms on every point in issue. A reference to a provision of the CGST Act, or of the Central Goods and Services Tax Rules, 2017 ("the CGST Rules"), includes the corresponding provision of the KGST Act and of the Karnataka Goods and Services Tax Rules, 2017.

B. FACTS

The audit

7. The Department took up the appellant's records for 2021-22 for audit by a notice in Form GST ADT-01 dated 29.11.2023. It issued an observations-

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cum-discrepancy notice on 23.01.2024 and an audit report on 04.04.2024. The audit made three findings:

(i). excess input tax credit of IGST ₹10,92,863, on a comparison of GSTR-3B with GSTR-2A;

(ii). interest of ₹26,28,465 under each of CGST and SGST, not paid on differential tax of ₹1,32,90,600 under each head, which the appellant had paid through Form GST DRC-03 after the rate change; and

(iii). interest of IGST ₹28, CGST ₹27,841 and SGST ₹25,490 on tax paid late in cash through GSTR-3B.

8. On the second finding, the appellant told the audit that the Department's figure was wrong, and that on the tax actually paid the "liability of interest shall be CGST Rs. 21,96,829/- and SGST Rs. 21,96,829/-". In the same submission it said that its customers had not paid the increase, that it had paid the tax from its own funds, and it asked to be relieved of "the interest liability as mentioned above". The audit accepted the arithmetic and confirmed the finding "to the extent" of ₹21,96,829 under each head. On the third finding, the appellant told the audit that interest of ₹24,451 under each of CGST and SGST, for the late return for March 2022, had been paid with the return for April 2022 and had not been given credit.

The intimation and the show cause notice

9. On Assignment No. 82/2024-25 dated 03.05.2024, the Adjudicating Authority issued an intimation in Form GST DRC-01A on 05.05.2024 under Rule

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142(1A) of the CGST Rules, inviting a response by 13.05.2024. The show cause notice records that the appellant filed a response in Part B of that form but did not pay.

10. A show cause notice in Form GST DRC-01 (Ref. ZD290524085909M) dated 24.05.2024 followed under Section 73(1). It proposed IGST of ₹10,92,863 on the first finding; interest of ₹4,09,852 under IGST, ₹22,24,670 under CGST and ₹22,22,319 under SGST; and a penalty of IGST ₹1,09,286. The interest under CGST and SGST was made up of ₹21,96,829 under each head on the second finding, which is the figure the appellant had itself worked out before the audit, and ₹27,841 and ₹25,490 on the third.

The reply

11. The appellant replied by an undated letter, described in the appeal memorandum as dated 27.06.2024. Its case was this:

(i). At the outset (paragraph 4), it denied the allegations and stated that it was "not liable to pay interest or penalty".

(ii). On the credit (paragraph 5), it showed that it had taken the credit in March 2022 on invoices reflected in GSTR-2B in April and May 2022, within the time allowed by Section 16(4).

(iii). On the interest on the differential tax (paragraph 6), it pointed out that the notice attributed the rate increase to Notification No. 22/2021-Central Tax (Rate), while a later audit observation referred to Notification No. 03/2022-Central Tax (Rate). It pleaded that its

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Government customers had resisted the increase and not paid it, that it had paid the tax from its own funds, and it asked that the interest be waived. In paragraph 6.4 it contended that, since the customer had not paid the differential tax, the consideration received should be treated as cum-tax value under Rule 35 of the CGST Rules. It relied on *Karnataka Golf Association v. Commissioner of Service Tax, Bangalore*, 2024 (2) TMI 85 (CESTAT Bangalore). In paragraph 6.5 it added, "notwithstanding the above", that the "liability of interest shall be CGST Rs. 21,96,829/- and SGST Rs. 21,96,829/- even assuming that it is liable to be paid", and that this figure "would be reduced further" on a cum-tax computation. It attached its working as Annexure-C.

(iv). On the GSTR-3B interest (paragraph 7), it contended that the notice made no specific demand. "Notwithstanding the above", it repeated that interest of ₹24,451 under each of CGST and SGST had been paid with the return for April 2022, and worked out the balance at IGST ₹63, CGST ₹418 and SGST ₹419. It attached the working and the return for April 2022 as Annexure-D.

(v). On penalty (paragraph 8), it contended that there was no short payment of tax and no mens rea.

The Order-in-Original

12. By the Order-in-Original dated 13.08.2024, the Adjudicating Authority:

(i). dropped the demand of credit in full;

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(ii). confirmed interest on the differential tax at ₹21,96,829 under each of CGST and SGST. It computed the interest invoice by invoice, from the due date of the tax on each invoice raised between January and March 2022 to the date of its payment through DRC-03 between October 2022 and June 2023. The figure is the one the appellant itself worked out. The order does not deal with the cum-tax contention;

(iii). confirmed interest on the GSTR-3B payments at CGST ₹27,841 and SGST ₹25,490, without dealing with the claim that ₹24,451 under each head had already been paid. It confirmed no IGST interest; and

(iv). imposed no penalty.

13. The order closes each finding with the same sentence: that the "submission of the Auditee ... is acceptable and sustainable", followed by "Hence the observation is hereby dropped" for the first finding and "hereby confirmed" for the other two. The sentence fits the first finding. It does not explain the third, where the appellant's claim was in substance rejected. The demand confirmed was as follows (in rupees):

Head of interest	IGST	CGST	SGST	Total
On differential tax paid through DRC-03	Nil	21,96,829	21,96,829	43,93,658
On tax paid late in cash through GSTR-3B	Nil	27,841	25,490	53,331
Total	**Nil**	**22,24,670**	**22,22,319**	**44,46,989**

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The first appeal

14. The appellant filed its appeal in Form GST APL-01 on the common portal on 04.12.2024 (Ack. AD291224003552F), and a physical copy on 21.12.2024. The appellant itself stated in the appeal that the order was communicated to it on 13.08.2024. The three months under Section 107(1) thus ended on 13.11.2024, and the appeal was 21 days late (22 days on the appellant's own count). With the appeal, the appellant filed a "Petition for Condonation of Delay", verified on 04.12.2024. It stated that the delay occurred because the consultant handling the appeal was unwell and the appellant was gathering documents to support its case. The appeal showed no amount as admitted and no pre-deposit. Its grounds were that the Government withheld part of each running bill as retention money; that the works were a continuous supply of service on which tax falls due only as payment falls due; that the appellant had paid from its own funds tax on amounts it had not received; and that no interest could arise on tax that was not yet payable.

15. The appeal, the petition for condonation and their verifications were signed by Sri Mada Ravi Shankar, the appellant's General Manager. The same officer appears as "Ravi Mada" in the portal acknowledgement and as "M. Ravi Sankar" in the General Power of Attorney referred to below. We refer to him as the General Manager.

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16. The appeal was listed for hearing in February 2026. A letter dated 13.02.2026 from Sri C.S. Srinivas, consultant, received on 18.02.2026, sought an adjournment, citing among other things the festival of Maha Shivaratri.

The Order-in-Appeal

17. By the Order-in-Appeal dated 19.02.2026, the First Appellate Authority rejected the adjournment and dismissed the appeal without a hearing. It held:

(i). that the adjournment could not be granted, because the authorization in favour of the consultant firm named nine persons but bore the signature of only one, and because there was, in its view, no Shivaratri on 16.02.2026; and that a hearing was in any event unnecessary, since the dismissal rested on the "absence of authority to entertain fatally belated appeals, filing defective appeals, and filing appeal without paying admitted amount of interest";

(ii). that no application for condonation had been filed "along with an affidavit", so that the delay of 21 days could not be condoned;

(iii). that the General Manager had signed the appeal without a certified board resolution or a notarised power of attorney, relying on *State Bank of Travancore v. Kingston Computers (I) (P) Ltd.*, (2011) 11 SCC 524, and on Order XXIX Rule 1 of the Code of Civil Procedure, 1908; and that the General Manager "cannot depose to the facts of the case", because the appeal did not mention the "admission"; and

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(iv). that the appellant had admitted interest of ₹21,96,829 under each head, in paragraph 6.5 of its reply and in its submission reproduced at page 8 of the Order-in-Original, and had not paid it, so that the appeal was "deemed to have not filed" under Section 107(6)(a).

18. The Order-in-Appeal describes the GSTR-3B interest as "Rs 27841-00 CGST and Rs 27841-00 SGST totaling to Rs 53331-00". The SGST figure is a slip for ₹25,490, as the total shows. The order does not refer to the petition for condonation, or to any of the grounds on the merits.

C. THE APPEAL BEFORE US

19. The General Manager verified the appeal in Form GST APL-05 on 28.04.2026. The Order-in-Appeal was communicated on 19.02.2026. The appeal is within the three months allowed by Section 112(1), which reads:

> "(1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal or the date, as may be notified by the Government, on the recommendations of the Council, for the purpose of filing appeal before the Appellate Tribunal under this Act, whichever is later."

20. Sub-section (8) of Section 112, so far as relevant, reads:

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"(8) 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, in addition to the amount paid under sub-section (6) of section 107, arising from the said order, subject to a maximum of twenty crore rupees, in relation to which the appeal has been filed."

21. The Order-in-Appeal confirms no tax, so there is no "tax in dispute" on which a pre-deposit could be computed. Whether any interest was "admitted" is the question under Point (iv) below, and our answer there applies equally here. The appeal is maintainable.

22. The paper book contains a General Power of Attorney dated 06.01.2017. By it, the Managing Director of "M/s Groma Infrastructure Limited (Formerly known as MVPR Infrastructure Limited)" appointed Sri M. Ravi Sankar, General Manager, as the company's attorney, among other things "to represent, sign and file the applications on all tax matters before the respective Tax authorities" on its behalf. It declares that "the actions taken by the Power of Attorney shall be treated as deemed to have been done by the Company". The instrument is on stamp paper and is attested by a notary. The appeal

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memorandum speaks of a "Board Resolution" being attached; no board resolution is on record, and the document filed is this power of attorney. The memorandum also refers in two places to the Order-in-Appeal as dated "19.04.2026" and "09.01.2025". These are evident slips, and we read them as references to the order of 19.02.2026.

D. SUBMISSIONS ON BEHALF OF THE APPELLANT

23. It was submitted by the learned Authorised Representative for the appellant that the appeal was dismissed without a hearing, though an adjournment had been sought. Maha Shivaratri fell on 15.02.2026, and the consultant's office, as its holiday list shows, was closed on 16.02.2026. An appellate authority must hear the appellant before deciding against it, whatever the ground. Reliance was placed on *State of Orissa v. Dr. (Miss) Binapani Dei*, AIR 1967 SC 1269; *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248; *Shri Keshav Cements and Infra Ltd. v. Deputy Commissioner of Commercial Taxes (Audit), Bagalkot*, 2026 (1) TMI 1431 (Karnataka High Court); *DSP Metalliks v. State of Gujarat*, 2026 (4) TMI 749 (Gujarat High Court); *Harsheel Auto Planet v. Commissioner (Appeals), CGST, Central Excise & Customs*, 2025 (5) TMI 765 (Orissa High Court); *GAEA Engineers and Contractors (P) Ltd. v. Chief Commissioner of CGST & Central Excise, Odisha*, 2025 (11) TMI 493 (Orissa High Court); and CBIC Circular No. 1053/02/2017-CX dated 10.03.2017.

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24. It was submitted that a petition for condonation was filed with the appeal, and that the contrary finding is against the record. The delay was short and bona fide, and within the period the First Appellate Authority could condone. Reliance was placed on *Collector, Land Acquisition, Anantnag v. Mst. Katiji*, (1987) 2 SCC 107; *N. Balakrishnan v. M. Krishnamurthy*, (1998) 7 SCC 123; *State of Haryana v. Chandra Mani*, (1996) 3 SCC 132; and *Sheo Raj Singh v. Union of India*, 2023 (11) TMI 814 (SC).

25. It was submitted that the General Manager signed the appeal because he knew the facts and held the company's authority. If there was any doubt, the First Appellate Authority should have pointed out the defect and called for proof. Nothing in the law requires every person named in an authorisation to sign it. *Kingston Computers* arose under the Code of Civil Procedure and does not displace the scheme of Rule 108 of the CGST Rules.

26. It was submitted that paragraph 6.5 of the reply computed the interest "even assuming that it is liable to be paid", while the reply as a whole disputed the liability. Such a computation is not an admission under Section 107(6)(a). The order confirmed no tax, so Section 107(6)(b) required nothing.

27. On the merits, it was submitted that the Order-in-Appeal is a non-speaking order, and reliance was placed on *Kranti Associates (P) Ltd. v. Masood Ahmed Khan*, (2010) 9 SCC 496. The Government withheld retention money along with the tax on it. The works were a continuous supply of service on which tax falls due only as payment falls due. The appellant paid from its own funds tax that was not yet payable, and no interest can arise on tax that is not due.

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Reliance was placed on *Commissioner of Service Tax v. Bhayana Builders (P) Ltd.*, (2018) 3 SCC 782. In the alternative, the consideration received should be treated as cum-tax under Rule 35.

28. On the GSTR-3B interest, it was submitted that the notice made no specific demand, and that in any case interest of ₹24,451 under each head was paid with the return for April 2022. On the reconciliation in Annexure-D, the balance is IGST ₹63, CGST ₹418 and SGST ₹419.

E. SUBMISSIONS ON BEHALF OF THE REVENUE

29. It was submitted by the learned State Representative for the Revenue that condonation of delay is discretionary. The appellant had to seek it and show sufficient cause, and the authority was not bound to make out a case for it.

30. It was submitted that a company acts only through persons authorised by its Board, and that this requirement applies equally to a statutory appeal.

31. It was submitted that the appellant itself computed and placed on record the figure of ₹21,96,829 under each head, and that this was an admission, whatever the qualifying words.

32. It was submitted that interest under Section 50 follows by law on tax paid late, and that the customer's failure to pay the supplier is no answer. The appellant charged and collected GST at 12% separately on its invoices, so the consideration cannot be treated as cum-tax. *Karnataka Golf Association* is distinguishable, because no tax had been collected there.

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33. It was submitted that the show cause notice carried the audit findings, including the GSTR-3B interest, and that the appellant answered that finding on the merits.

34. At the hearing, the Bench asked the learned State Representative to point out any error in the appellant's reconciliation of the GSTR-3B interest. None was pointed out.

F. POINTS FOR DETERMINATION

35. The following points arise:

(i). Could the First Appellate Authority dismiss the appeal without hearing the appellant?

(ii). Ought the delay of 21 days to have been condoned?

(iii). Was the appeal validly signed and verified on behalf of the company?

(iv). Was the appeal barred by Section 107(6) for want of payment of an "admitted" amount or of a pre-deposit?

(v). Should this Tribunal decide the merits of the first appeal?

(vi). Is interest payable on the differential tax paid through DRC-03, and does Rule 35 reduce it?

(vii). Was the GSTR-3B interest within the show cause notice, and what amount is payable?

G. DISCUSSION AND FINDINGS

Point (i): Dismissal without a hearing

36. Sub-sections (8) and (9) of Section 107 read:

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

(9) The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal."

37. Sub-section (8) is short and unqualified. It draws no line between a decision on the merits and a decision on a threshold objection. The First Appellate Authority reasoned that a hearing is unnecessary where the appeal fails for "absence of authority to entertain" it. The statute does not support that view. Each of the three grounds turned on facts: whether a petition for condonation had been filed and what it said; what authority the signatory held; and what the appellant had said in its reply. Those are the very matters on which a party must be heard, because a hearing is where a mistaken assumption of fact is corrected. This case shows why. The first ground rested on the premise that no petition for condonation had been filed. The premise was wrong.

38. It was held by the Hon'ble Supreme Court in *State of Orissa v. Dr. (Miss) Binapani Dei*, AIR 1967 SC 1269, that even an administrative order which involves civil consequences must be made consistently with the rules of natural justice. It was held by the Hon'ble Supreme Court in *Maneka Gandhi*

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v. Union of India, (1978) 1 SCC 248, that the rule of *audi alteram partem* applies unless the statute excludes it, expressly or by necessary implication. Here the statute does not exclude the rule; it enacts it. Section 107(9) allows up to three adjournments for sufficient cause. We need not decide whether the reason given for this adjournment was sufficient. Even if the adjournment was rightly refused, the First Appellate Authority had to give the appellant another date before dismissing its appeal. Nor could it refuse the adjournment because eight of the nine persons named in the consultant firm's authorisation had not signed it. That document concerns the relationship between the company and its advisers. It has nothing to do with the company's own right to be heard.

Finding on Point (i): The Order-in-Appeal was passed in breach of Section 107(8) and of the principles of natural justice. It cannot stand on that ground alone. As both sides have argued each of the three threshold grounds fully, we decide them as well.

Point (ii): Condonation of delay

39. Sub-sections (1) and (4) of Section 107 read:

> "(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

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three months from the date on which the said decision or order is communicated to such person.

…

(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."

40. Sub-section (4) empowers the Appellate Authority to condone a delay of up to one month beyond the three months. Beyond that month, it has no power at all. Within that month, the power is real, and it must be exercised judicially on the cause shown.

41. The finding that the appellant filed no application for condonation is contrary to the record. The appeal papers contain a petition, verified on the day the appeal was filed, which states the delay and its cause. The Revenue has not suggested that the petition was not part of the appeal as filed. Form GST APL-01 itself asks, in items 16 and 17, whether the appeal is filed late and, if so, for the period of and the reasons for the delay. Neither the Act nor Rule 108 prescribes a separate application, still less an affidavit. The First Appellate Authority imposed a requirement that has no statutory source, and did not consider the petition actually filed.

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42. It was held by the Hon'ble Supreme Court in *Collector, Land Acquisition, Anantnag v. Mst. Katiji*, (1987) 2 SCC 107, that the expression "sufficient cause" should receive a liberal construction so as to advance substantial justice, and that when substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. It was held by the Hon'ble Supreme Court in *N. Balakrishnan v. M. Krishnamurthy*, (1998) 7 SCC 123, that the length of the delay is not decisive; what matters is whether the explanation is acceptable, and a delay should be condoned where there is no negligence, inaction or want of bona fides. The same approach was taken in *State of Haryana v. Chandra Mani*, (1996) 3 SCC 132.

43. We agree with the learned State Representative that condonation is not a matter of right, and that the authority is not bound to make out a case for the appellant. But the appellant made out its own case. The delay was 21 days. The cause shown, the illness of the consultant handling the matter and the time taken to gather supporting documents, is ordinary, plausible and uncontradicted. Nothing suggests a deliberate or dilatory motive, and the Revenue suffered no prejudice. The First Appellate Authority did not consider the cause at all. Section 113(1), extracted under Point (v) below, empowers this Tribunal to modify the order under appeal, and we therefore decide the question ourselves.

Finding on Point (ii): The delay of 21 days in filing the first appeal is condoned.

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Point (iii): Authority of the signatory

44. Sub-rules (1) and (2) of Rule 108 of the CGST Rules, so far as relevant, read:

> "(1) An appeal to the Appellate Authority under sub-section (1) of section 107 shall be filed in FORM GST APL-01, along with the relevant documents, electronically and a provisional acknowledgement shall be issued to the appellant immediately:
>
> (2) The grounds of appeal and the form of verification as contained in FORM GST APL-01 shall be signed in the manner specified in rule 26."

45. Rule 26, so far as relevant, reads:

> "(1) All applications, including reply, if any, to the notices, returns including the details of outward and inward supplies, appeals or any other document required to be submitted under the provisions of these rules shall be so submitted electronically with digital signature certificate or through e-signature as specified under the provisions of the Information Technology Act, 2000 (21 of 2000) or verified by any other mode of signature or verification as notified by the Board in this behalf:
>
> Provided that a registered person registered under the provisions of the Companies Act, 2013 (18 of 2013) shall furnish the documents or application verified through digital signature certificate.

(2) Each document including the return furnished online shall be signed or verified through electronic verification code—

(c) in the case of a company, by the chief executive officer or authorised signatory thereof;"

46. The First Appellate Authority also relied on Order XXIX Rule 1 of the Code of Civil Procedure, 1908, which reads:

"1. Subscription and verification of pleading.—In suits by or against a corporation, any pleading may be signed and verified on behalf of the corporation by the secretary or by any director or other principal officer of the corporation who is able to depose to the facts of the case."

47. A company acts through natural persons, and one who acts for it must hold its authority. That proposition is not in doubt. It was held by the Hon'ble Supreme Court in *State Bank of Travancore v. Kingston Computers (I) (P) Ltd.*, (2011) 11 SCC 524, that a suit filed in the name of a company by a person whose authority from the company was not established was not validly instituted. The question here is whether the General Manager held the Appellant company's authority and, if proof of it was not filed with the appeal, whether the omission was fatal.

48. Rules 108 and 26 answer the first part. A company's appeal is to be signed by its Chief Executive Officer or its authorised signatory and, when filed on the common portal, verified by digital signature. The appeal was filed on the

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portal under the appellant's own registration, and the portal acknowledgement names Sri Ravi Mada as the person who filed it. The appeal names him as the appellant's authorised representative. He held a General Power of Attorney, executed for the company by its Managing Director nearly eight years earlier, which authorised him "to represent, sign and file the applications on all tax matters before the respective Tax authorities". The company has since prosecuted this second appeal through him. Nothing suggests that the company disowns the appeal.

49. It was held by the Hon'ble Supreme Court in *United Bank of India v. Naresh Kumar*, (1996) 6 SCC 660, that a company can ratify the act of an officer who has signed and verified pleadings on its behalf; that ratification may be express or may be inferred from the conduct of the company in pursuing the proceeding; and that procedural defects which do not go to the root of the matter should not be allowed to defeat a just cause. *Kingston Computers* does not hold otherwise. There, the person who issued the letter of authority was not himself shown to hold any authority from the company, and the suit rested on nothing more. Here, the authority flows from an instrument executed for the company by its Managing Director, and the company's conduct confirms it at every step.

50. The First Appellate Authority noted that the reply to the show cause notice was signed by another authorised signatory. The Order-in-Original also records that another person, Sri Sandeep Prasad, represented the company at adjudication. That shows only that more than one person acted for the

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company. It does not show that the General Manager lacked authority. The further observation, that the General Manager "cannot depose to the facts of the case" because the appeal did not mention the supposed admission, confuses the merits of a plea with the authority of the person who makes it. Whether the reply contained an admission was a question to be decided. A party's disagreement with the authority's view of it says nothing about who may sign its appeal. If the First Appellate Authority doubted the signatory's authority, the proper course was to point out the defect and call for proof, not to dismiss the appeal unheard.

Finding on Point (iii): The appeal was signed and verified by an officer who held the company's authority. Any omission to file proof of that authority with the appeal was a curable defect. The power of attorney now on record, and the company's conduct in pursuing the appeal, cure it.

Point (iv): The "admitted" amount and the pre-deposit under Section 107(6)

51. Sub-section (6) of Section 107, as it stood when the first appeal was filed, read:

> "(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

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

52. Clause (a) turns on what the appellant has "admitted". The words "as is admitted by him" speak of the appellant's own stand when it files the appeal, and Form GST APL-01 accordingly asks the appellant to state the amount it admits. The appellant stated none. The question is whether anything it said earlier compels a different view.

53. It was held by the Hon'ble Supreme Court in *Nagindas Ramdas v. Dalpatram Ichharam alias Brijram*, (1974) 1 SCC 242, that admissions, if true and clear, are by far the best proof of the facts admitted; that admissions in pleadings, made at or before the hearing, bind the party that makes them; but that other admissions are not conclusive and can be shown to be wrong. An admission must be clear and unequivocal, and it must be read in the setting in which it was made.

54. The reply to the show cause notice, read as a whole, is not an admission. It opened by stating that the appellant was "not liable to pay interest or penalty". On this very head it asked that the interest be waived and contended that the consideration was cum-tax. Paragraph 6.5, on which the First Appellate Authority relied, begins with "Notwithstanding the above", corrects the Department's arithmetic, and ends with the words "even assuming that it is liable to be paid". That is the language of a party arguing in the alternative. A

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taxpayer who says "you have computed the wrong figure, and even on your own premise it can be no more than this" does not admit the premise.

55. The submission before the audit, reproduced at page 8 of the Order-in-Original, stands on a different footing, and we have considered it with care. There the appellant said, without qualification, that the "liability of interest shall be" ₹21,96,829 under each head. But it said so in answer to a higher figure, and in the same breath it asked to be relieved of the whole of that interest. Read fairly, the statement accepts the Department's method of computation; it does not concede that the interest is owed. Even if it is read as an admission, it is not an admission in a pleading. It is a statement made in the course of an audit, which the appellant qualified in its reply before adjudication and contested outright in its appeal, on grounds that, if accepted, would leave no interest payable at all. Such a statement is not conclusive. It cannot fix an "admitted" amount under clause (a) against the stand the appellant took when it appealed. That the Adjudicating Authority adopted the appellant's arithmetic does not turn the arithmetic into an admission of liability.

56. Clause (b) requires ten per cent of the "remaining amount of tax in dispute". Clause (a) lists "tax, interest, fine, fee and penalty"; clause (b) speaks only of "tax". The contrast is deliberate. Interest is not tax. The Order-in-Original confirmed no tax, and the First Appellate Authority itself recorded that the appellant had paid no pre-deposit "as the amount challenged in this appeal pertains to interest". Clause (b) therefore required nothing. The First Appellate

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Authority also quoted a proviso that requires ten per cent. of the penalty in an appeal against an order demanding penalty without tax. The Finance Act, 2025 inserted that proviso with effect from 01.10.2025. It did not exist when this appeal was filed on 04.12.2024, and it concerns penalty, not interest.

Finding on Point (iv): The appellant admitted no amount within the meaning of Section 107(6)(a), and no pre-deposit was payable under Section 107(6)(b). The first appeal was validly filed.

57. None of the three grounds on which the first appeal was dismissed survives. The Order-in-Appeal is set aside.

Point (v): Deciding the merits here

58. Sub-section (1) of Section 113 reads:

> "(1) 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, as the case may be, after taking additional evidence, if necessary."

59. Section 113(1) empowers the Tribunal to confirm, modify or annul the order under appeal. The power to refer the case back is discretionary, and is to be used where the record does not allow a decision on the merits. Here the

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material needed to decide the question is already on record, and neither party has asked for the matter to be sent back.

60. The appellant has placed its case on the merits before us in full and asked us to consider it, and the Revenue has answered it. The record is complete: the audit report, the show cause notice, the reply with its annexures, and the invoice-wise computation in the Order-in-Original. No fact that we need is in dispute, and no further inquiry is required. The dispute concerns a single year and interest alone, and it has been pending since 2024.

Finding on Point (v): This Tribunal decides the merits of the first appeal in this order.

Point (vi): Interest on the differential tax

61. Sub-sections (1) and (2) of Section 50, as they stood at the relevant time, read:

> "(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council:
>
> Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after

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commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid."

62. The liability to interest arises from the failure to pay tax within the period prescribed. It is compensatory. It makes good to the exchequer the use of money that it should have had and did not. It was held by the Hon'ble Supreme Court in *Pratibha Processors v. Union of India*, (1996) 11 SCC 101, that interest is compensatory in character and is imposed on an assessee who has withheld payment of tax as and when it was due and payable. It was held by the Hon'ble Madras High Court in *Tvl. Noyyal Common Effluent Treatment Company Ltd. v. Assistant Commissioner (ST), Tirupur Central-I Circle, Tirupur-II*, W.P. No. 20170 of 2026, decided on 08.06.2026, that interest on delayed payment of tax is a statutory consequence under Section 50, and that payment of the differential tax through Form GST DRC-03 does not extinguish the liability to interest. We respectfully agree.

63. The facts are not in dispute. By Notification No. 15/2021-Central Tax (Rate) dated 18.11.2021, which took effect on 01.01.2022, the words "Government Entity" were omitted from the concessional entries for works contracts. From that date, the rate on works contracts supplied to a Government Entity rose

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from 12% to 18%. The running account bills on record show that the recipient was Visvesvaraya Jala Nigam Ltd., described on them as "A Government of Karnataka Enterprise". The appellant raised invoices between January and March 2022 charging 12%. It later paid the differential 6%, ₹1,32,90,600 under each of CGST and SGST, through DRC-03 between October 2022 and June 2023. It does not dispute the rate before us. Its point that the show cause notice cited Notification No. 22/2021-Central Tax (Rate) while a later audit observation cited Notification No. 03/2022-Central Tax (Rate) does not touch its liability, because it accepted the higher rate from 01.01.2022 and paid tax at that rate. Interest therefore runs under Section 50 from the day after the tax fell due to the day on which it was paid.

64. The appellant's principal answer is that its customer did not pay the differential, and that it paid the tax from its own funds. That explains its hardship. It does not affect its liability. The tax is owed by the supplier to the Government, and it falls due at the time of supply fixed by the Act, not when the customer chooses to pay. The dispute between a contractor and its customer is theirs to settle; it cannot postpone the Government's entitlement. Nor does the Act give any authority the power to waive interest on the ground of hardship.

65. The only statutory waiver of interest is in Section 128A, and it is confined to the period from 01.07.2017 to 31.03.2020. Sub-section (1) of Section 128A, so far as relevant, reads:

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"(1) Notwithstanding anything to the contrary contained in this Act, where any amount of tax is payable by a person chargeable with tax in accordance with,—

(a) a notice issued under sub-section (1) of section 73 or a statement issued under sub-section (3) of section 73, and where no order under sub-section (9) of section 73 has been issued; or

(b) an order passed under subsection (9) of section 73, and where no order under sub-section (11) of section 107 or sub-section (1) of section 108 has been passed; or

(c) an order passed under sub-section (11) of section 107 or sub-section (1) of section 108, and where no order under sub-section (1) of section 113 has been passed,

in respect of the period from the 1st July, 2017 to the 31st March, 2020, or any part thereof, and the said person pays the full amount of tax payable as per the notice or statement or the order referred to in clause (a), clause (b) or clause (c), as the case may be, on or before the date, as may be notified by the Government on the recommendations of the Council, no interest under section 50 and penalty under this Act, shall be payable …"

66. It was held by the Hon'ble Supreme Court in *Rashtriya Ispat Nigam Ltd. v. Dewan Chand Ram Saran*, (2012) 5 SCC 306, that the liability to pay an

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indirect tax to the Government rests on the person the statute names, but that the parties to a contract are free to agree on who will finally bear the tax. Such an agreement binds the parties to it; it does not alter the liability to the Government. It was held by the Hon'ble High Court of Karnataka in *State of Karnataka v. M/s Sudhanva Engineers and Builders*, Writ Appeal No. 718 of 2025, decided on 10.06.2026, that liability to GST must be determined strictly under the statute and cannot be altered by contract; that a contractor's claim for reimbursement of the additional tax is a matter between the contractor and its employer; and that directions to waive interest or penalty under the GST Acts, or to relax the period of limitation, cannot be sustained. The appellant's remedy for the differential tax, if any, lies against its customer under the contract. It does not lie against the Revenue, and it does not touch the interest that the Act imposes.

67. The argument founded on retention money and continuous supply fares no better. Sub-section (2) of Section 13, so far as relevant, reads:

> "(2) The time of supply of services shall be the earliest of the following dates, namely:—
>
> (a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under section 31 or the date of receipt of payment, whichever is earlier; or
>
> (b) the date of provision of service, if the invoice is not issued within the period prescribed under section 31 or the date of receipt of payment, whichever is earlier; or

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(c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply:"

68. Sub-section (5) of Section 31 reads:

"(5) Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,—

(a) where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;

(b) where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;

(c) where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event."

69. The appellant issued its running account bills for the full value of the work measured. Those bills are the invoices on which the differential was computed, by the Adjudicating Authority and by the appellant itself in its own working. Where the invoice is issued within the period prescribed under Section 31, Section 13(2)(a) fixes the time of supply as the date of the invoice or the date of receipt of payment, whichever is earlier. Section 31(5) tells a supplier of continuous services when it must issue an invoice. It does not postpone the tax on an invoice once issued. Retention money is part of the

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consideration for the supply, deferred by contract. It is not a deduction from the value. It was held by the Hon'ble Supreme Court in *Commissioner of Service Tax v. Bhayana Builders (P) Ltd.*, (2018) 3 SCC 782, on which the appellant relied, that the value of materials supplied free of cost by the service recipient does not form part of the gross amount charged. That decision does not touch the point before us. The appellant's further contention, that it paid more tax than was due over April 2019 to March 2022, concerns a different and wider period. It raises a claim for refund and forms no part of this demand. We express no view on it.

The cum-tax contention

70. Rule 35 of the CGST Rules reads:

> "35. Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax.—Where the value of supply is inclusive of integrated tax or, as the case may be, central tax, State tax, Union territory tax, the tax amount shall be determined in the following manner, namely,—
>
> Tax amount = (Value inclusive of taxes × tax rate in % of IGST or, as the case may be, CGST, SGST or UTGST) ÷ (100 + sum of tax rates, as applicable, in %)"

71. Rule 35 applies only "where the value of supply is inclusive of" tax. It then extracts the tax from that inclusive value. It presupposes a value that includes tax. It was held by the Hon'ble Supreme Court in *Commissioner of Central*

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Excise v. Maruti Udyog Ltd., (2002) 3 SCC 547, that where the price is charged without any separate charge of duty, the price received is to be treated as including the duty. *Karnataka Golf Association*, which applied Section 67(2) of the Finance Act, 1994, was a case in which no service tax had been collected at all.

72. Here the appellant stated the taxable value of each supply in its invoice and charged GST on it separately, at 12%. It thus declared the value to be exclusive of tax. The customer's later refusal to pay the further 6% cannot turn a stated taxable value into a tax-inclusive one. If it could, a supplier that under-charged tax could shrink the very shortfall by re-reading its own value as tax-inclusive. Nothing in the Act or in Rule 35 supports that result. The appellant also paid the differential tax at the full rate and has not sought to recompute it. Interest follows the tax actually paid late.

Finding on Point (vi): Interest under Section 50(1) is payable on the differential tax paid through DRC-03. The cum-tax contention under Rule 35 is rejected. The interest of ₹21,96,829 under CGST and ₹21,96,829 under SGST, computed invoice by invoice from the due dates to the dates of payment, is confirmed.

Point (vii): Interest on the GSTR-3B payments

73. Sub-section (1) of Section 73, and sub-sections (6) and (7) of Section 75, read:

> "73. (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax

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credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder."

"75. (6) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

(7) The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice."

74. The plea that this interest was not demanded in the notice fails. The show cause notice carried the audit report's third finding with its figures, and included the interest of ₹27,841 and ₹25,490 in the amounts it proposed. The appellant's reply (paragraph 7.1) recited that finding and its amounts, and answered them on the merits. The appellant knew exactly what was proposed and met it. The demand confirmed is the very demand the notice proposed, on the very ground it stated. Section 75(7) is not offended.

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75. On the amount, the appellant stands on firmer ground. Its reply made a specific claim: that interest of ₹24,451 under each of CGST and SGST, for the late return for March 2022, had been paid with the return for April 2022 and had not been given credit. It supported the claim with a working and a copy of the return (Annexure-D). The Adjudicating Authority neither accepted nor rejected that claim. It recorded only that the observation was "hereby confirmed". It was held by the Hon'ble Supreme Court in *Kranti Associates (P) Ltd. v. Masood Ahmed Khan*, (2010) 9 SCC 496, that a quasi-judicial authority must record reasons in support of its conclusions, and that reasons are the live link between the material on record and the conclusion reached. An order that meets a specific, documented claim with silence does not meet Section 75(6).

76. The Order-in-Original's own table supports the appellant's claim. Consistently with the proviso to Section 50(1), the table computes interest on the tax paid in cash. It shows the return for March 2022, due on 20.04.2022, as filed on 28.04.2022, eight days late, with tax of ₹61,97,665 under CGST and ₹61,97,706 under SGST paid in cash. Interest at 18% for eight days on those amounts comes to about ₹24,451 under each head, which is the amount the appellant says it paid. Yet the table computes the interest for March 2022 at ₹27,889 and ₹27,890, more than eight days' interest, and deducts, as interest already discharged, only ₹1,017 under CGST and ₹3,368 under SGST. It gives no credit for the ₹24,451. The Revenue has had the appellant's reconciliation

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since 2024. When asked at the hearing to point out any error in it, it pointed out none.

77. The appellant's working shows a balance of IGST ₹63, CGST ₹418 and SGST ₹419. The Order-in-Original confirmed no IGST interest, and in the appellant's own appeal the demand cannot be enhanced. The IGST figure is therefore left out of account.

Finding on Point (vii): The GSTR-3B interest was within the show cause notice. The appellant is entitled to credit for the interest already paid. The interest under this head is reduced from CGST ₹27,841 and SGST ₹25,490 to CGST ₹418 and SGST ₹419.

H. CONCLUSIONS

78. We state our conclusions as follows:

(i). Section 107(8) obliges the Appellate Authority to hear the appellant before deciding the appeal, whether on a threshold objection or on the merits. A dismissal on limitation, authorisation or pre-deposit without a hearing cannot be sustained.

(ii). Neither the Act nor the Rules prescribe a separate application or an affidavit for condonation of delay under Section 107(4). Form GST APL-01 itself calls for the period of and the reasons for the delay. Where the delay is within the further month and a cause is shown, the authority must consider the cause and decide it.

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(iii). A defect in the proof of authority of the officer who signs an appeal for a company is curable. Authority, or ratification, may be shown by the instrument of authority and by the company's conduct in pursuing the appeal.

(iv). An amount is "admitted" under Section 107(6)(a) only where the appellant admits it clearly and unequivocally. A computation offered in the alternative, "even assuming" liability, is not an admission; nor is a statement of the correct figure made while seeking relief from the whole of it. Where the order under appeal confirms no tax, Section 107(6)(b) requires no pre-deposit.

(v). Interest under Section 50(1) on tax paid late is compensatory and follows the tax. A customer's failure to pay the supplier, the supplier's hardship, or the deferral of retention money does not postpone the time of supply or suspend the interest. Rule 35 does not apply where the supplier has stated the taxable value and charged tax on it separately.

I. ORDER

79. In the result, the appeal is partly allowed, as follows:

(a) Order-in-Appeal No. GST: AP:445/2024-25 dated 19.02.2026 is set aside.

(b) The delay of 21 days in filing the first appeal is condoned. The first appeal is held to have been validly signed, verified and filed, and no admitted amount or pre-deposit was payable under Section 107(6).

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(c) Deciding the first appeal, we modify the Order-in-Original dated 13.08.2024 as follows:

(i). the interest of ₹21,96,829 under CGST and ₹21,96,829 under SGST on the differential tax paid through DRC-03 is confirmed; and

(ii). the interest on tax paid late in cash through GSTR-3B is reduced from CGST ₹27,841 and SGST ₹25,490 to CGST ₹418 and SGST ₹419.

(d) The demand thus stands at ₹43,94,495 (CGST ₹21,97,247 and SGST ₹21,97,248), consisting of interest alone. No tax or penalty is payable.

(e) The proper officer shall give effect to this order and update the demand on the common portal. Any amount already paid towards the demand shall be adjusted against the amount determined above, and any excess shall be refunded in accordance with law.

(f) There shall be no order as to costs.

Pronounced in Open Tribunal on this the 6th day of October, 2026.

(Prabhakaran P.M)
Judicial Member

(Ravi Jesuraj S.)
Technical Member (State)

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