GSTAT

State Bench Raipur

Division Bench Court No. Court I

Filing No 2026122101000036

(APL/D2/RPR/2026)

DEV ENTERPRISES **.....Appellant**

Versus

ASSISTANT COMMISSIONER OF STATE TAX, ASSISTANT COMMISSIONER, NEW BUS STAND DHAMTARI **.....Respondent**

Quorum

Hon'ble Pradeep Kumar Vyas, Member (Judicial)
Hon'ble Chandra Bhushan Singh, Member (Technical)

Counsel for Appellant	**Counsel for Respondent**
NONE	NONE

ORDER

(Order on scrutiny and maintainability)

Per: C. B. Singh, Member (Technical)

1. The present appeal in Form GST APL-05 challenges the original demand identified in the scrutiny notice by Reference No. ZD221223050834R dated 30.12.2023. The detailed signed adjudication order bears the date 29.12.2023 and was passed under section 73(9) of the Chhattisgarh Goods and Services Tax Act, 2017 by Smt. Ahilya Shukla, Assistant Commissioner, State Tax, Dhamtari Circle, Chhattisgarh, in Case No. GSTR 9,9C/2023. It concerns Dev Enterprises, proprietor Pradeep Mittal, GSTIN 22AALHP3438G1Z8, for the period 01.07.2017 to 31.03.2018. The order records tax of Rs. 2,42,266, interest of Rs. 2,40,449 and penalty of Rs. 24,227, aggregating to Rs. 5,06,942. The first appeal in Form GST APL-01 against that order is still pending before the Appellate Authority. No appellate or revisional order is the subject of the present challenge.

PROCEDURAL BACKGROUND

2. The Registry issued a scrutiny notice dated 21.05.2026 through the GSTAT portal pointing out, principally, that the appeal in FORM GST APL-05 was directed against an order-in-original while the first appeal in FORM GST APL-01 remained pending. Other defects concerned the respondent, identification of the appellate authority, non-uploading of relevant orders and notices, and verification of pre-deposit. The first-appeal acknowledgement confirms

filing on 01.05.2025 with a pre-deposit of ₹24,228. The electronic cash ledger reflects debit of ₹12,114 each under CGST and SGST on 01.05.2025 towards payment of demand under appeal.

HEARING ON MAINTAINABILITY

3. On the date fixed, none appeared on behalf of either party.

4. The record includes the Registrar Court orders dated 19.08.2026, 16.09.2026 and 24.09.2026, and the appellant's written clarification dated 23.09.2026. The scrutiny notice and subsequent directions were communicated through the GSTAT portal. On 19.08.2026, counsel for the appellant appeared, acknowledged the defect concerning the respondent and sought its rectification. On 16.09.2026, none appeared for the appellant and the matter was adjourned to 24.09.2026.

5. In its clarification dated 23.09.2026, the appellant expressly acknowledged that its appeal in FORM GST APL-01 against the original demand order remained pending and sought protection against recovery until its disposal.

6. The Registrar's speaking order dated 24.09.2026 considered the defects and the clarification, declined registration and directed placement of the matter before the Bench.

7. The appellant thus had notice of the central maintainability objection and an opportunity to respond. The matter is considered on the existing record; no adverse factual inference is drawn merely from non-appearance before this Bench.

ISSUES FOR DETERMINATION

8. The preliminary issue is whether an appeal under Section 112(1) is maintainable directly against an order-in-original when an appeal under Section 107 against that order remains pending and no appellate or revisional order is challenged before the Tribunal.

STATUTORY FRAMEWORK

9. Section 107(1) of the Central Goods and Services Tax Act, 2017 provides the first appeal against a decision or order passed by an adjudicating authority. Section 112(1) permits an appeal to this Tribunal against an order passed under section 107 or section 108 of that Act or the corresponding State or Union Territory enactment. The statutory sequence therefore places original adjudication before the Appellate Authority and an appellate or revisional order before the Tribunal.

10. Section 111(1) requires the Tribunal to be guided by the principles of natural justice. Rule 24(4) of the GSTAT (Procedure) Rules, 2025 provides for unresolved scrutiny defects to be placed before the appropriate Bench after the prescribed opportunity. The Bench may determine whether registration can be accepted or must be refused. That procedural power cannot enlarge the category of appealable orders prescribed by Section 112(1).

Relevant authorities

11. In *Ganga Bai v. Vijay Kumar, (1974) 2 SCC 393*, paragraph 15, the Hon'ble Supreme Court held that the right of appeal is statutory and an appeal requires clear authority of law. In *Kiran Singh v. Chaman Paswan, AIR 1954 SC 340*, paragraph 6, the Hon'ble Supreme Court

explained that want of jurisdiction strikes at the authority to decide and cannot be cured by consent. These principles apply to the statutory limits of this Tribunal's appellate jurisdiction.

DISCUSSION AND FINDINGS

12. The impugned decision is an original adjudication order passed under Section 73(9) by the Assistant Commissioner, State Tax, Dhamtari Circle. The signed adjudication order bears the date 29.12.2023, whereas the associated demand reference is dated 30.12.2023. This difference does not alter the nature of the impugned decision. The appellant's written clarification dated 23.09.2026 confirms that the first appeal against this order is pending; no order under Section 107 or Section 108 has been produced.

13. The officer who passed the impugned decision acted as an adjudicating authority, not as an appellate or revisional authority. Neither filing of FORM GST APL-01 nor its pendency converts the original decision into an order under Section 107. The appellant's request for protection against recovery pending the first appeal also cannot confer appellate jurisdiction on this Tribunal. The statutory prerequisite for an appeal under Section 112(1) is absent. The filing is therefore not maintainable.

14. This is a jurisdictional defect, distinct from a defect in presentation. Rectification of the respondent's description, uploading of missing documents or proof of deposit cannot render an original adjudication order directly appealable under Section 112(1). Nor can the present filing be retained in anticipation of a future order in the first appeal. Any challenge to a subsequent appealable order must be instituted in accordance with the Act.

15. The initial filing named Pradeep Mittal, associated with the appellant concern, as respondent. The Registrar Court orders subsequently reflect differing descriptions of the respondent, including the adjudicating officer. Rule 33(1) of the GSTAT (Procedure) Rules, 2025 requires the Commissioner concerned to be joined as respondent in an appeal by a person other than the Commissioner. Although correction of the cause title is ordinarily permissible, it cannot cure the absence of an appealable order under Section 112(1).

16. The acknowledgement of the pending first appeal and the electronic cash ledger support a deposit of ₹24,228 on 01.05.2025 (CGST ₹12,114 and SGST ₹12,114). Under Section 107(7), payment of the amount prescribed by Section 107(6) results in deemed stay of recovery of the balance amount in the manner provided by that provision. Whether the payment satisfies all statutory requirements for the pending first appeal, and the extent of any protection under Section 107(7), are matters for the competent authority on the relevant record. This Tribunal makes no order staying recovery, nor any finding regarding refund, adjustment or forfeiture.

CONCLUSION AND OPERATIVE ORDER

17. Having considered the scrutiny notice, the opportunities afforded before the Registrar, the appellant's written clarification dated 23.09.2026 and the Registrar's order dated 24.09.2026, we hold that Filing No. 2026122101000036 seeks to challenge an order-in-original while the first appeal under Section 107 remains pending. No order appealable under Section 112(1) has been identified. The filing is accordingly rejected as not maintainable under Section 112(1), read with Rule 24(4) of the GSTAT (Procedure) Rules, 2025, and registration as a regular Tribunal appeal is declined.

18. This order does not decide the merits of the original demand or the pending first appeal, nor does it determine the legality of any recovery action. The appellant may pursue the pending appeal before the competent Appellate Authority and, if aggrieved by an order subsequently passed under Section 107 or Section 108, avail the remedy under Section 112 subject to its statutory conditions, including limitation and deposit. No extension of limitation or interim protection against recovery is granted by this order.

19. The Registry shall upload this order on the GSTAT portal and make the necessary entries against the filing number. No order as to costs.

Pronounced in the open court on 09.10.2026.

(Pradeep Kumar Vyas) (Chandra Bhushan Singh)

Dated: 09.10.2026