GSTAT

State Bench Delhi

Division Bench II

APL/79/DEL/2026

LALDEO RAJAK **.....Appellant**

Versus

KANTHWAL SERVICES, PROPRIETOR, E-163 CHATTARPUR EXTENSION NEW DELHI DLSOD 110074 **.....Respondent**

Quorum

Sh. Arun Kumar Singal, Member (Judicial)

Sh. Sanjeev Kumar Jain, Member (Technical)

Argued by

Sh. Deepak Kumar Sharma, Assistant Commissioner, Division – Malviya Nagar, CGST Delhi South.

Sh. Naman Gupta, Advocate for the respondent.

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. : ZN510071026000151H **Date of order :** 15/10/2026

1.	GSTIN/Temporary ID/UIN -	
2.	Appeal Case Reference no. - APL/79/DEL/2026	Date - 28/01/2026
3.	Name of the appellant - Laldeo Rajak , laldeor.g189201@gov.in , 9430299487	

4.	Name of the respondant - 1. KANTHWAL SERVICES , rnguptadvat@gmail.com , 9810191944	
5.	Order appealed against -	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD070625019910F	Date - 19/06/2025
6.	Personal Hearing - 15/10/2026 05/10/2026 08/09/2026 31/08/2026 27/08/2026 12/08/2026 03/08/2026 07/07/2026 26/05/2026 19/05/2026 12/05/2026 27/04/2026 09/04/2026	
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	
8.	Order in brief - The demand of short-paid tax of ₹4,58,289/- stands discharged and no fresh demand survives on that count. Interest under Section 50(1) of the Act, 2017 for FY 2017-18 is payable at ₹40,47,151/-, of which ₹15,00,000/- already stands paid, leaving a balance of ₹25,47,151/-. The penalty of ₹45,829/- under Section 122(2)(a) read with Section 73 is upheld. The Department appeal and the Respondent cross objection are both disposed of on these terms.	

Summary of Order

9.	If demand order then whether demand quantified: No	

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
Short or non-payment of tax	As per Order in Appeal No 172/JC/Central Tax/Appeal-II/Delhi/2024-25 dated 03.07.2024 (Copy attached)	

Place :DELHI

Date : 15.10.2026

Arun Kumar Singal, JM,

Sanjeev Kumar Jain, TM,

Jurisdiction: Delhi

ORDER

1.0 This common order shall dispose of Central Tax Appeal No. APL/79/DEL/2026, preferred by the Assistant Commissioner, Division-Malviya Nagar, CGST Delhi South Commissionerate (hereinafter "the Department"), against Order-in-Appeal No. 172/JC/Central Tax/Appeal-II/Delhi/2024-25 dated 03.07.2024 passed by the Joint Commissioner, CGST Appeals-II, Delhi, and, together with it, the Cross Objection filed by the Respondent, M/s Kanthwal Services, under Section 112(5) of the Central Goods and Services Tax Act, 2017 (hereinafter "the Act") against certain findings sustained in the very same order-in-appeal. Since both proceedings arise out of the same order-in-appeal, involve the same set of facts and the same tax period, they are heard and disposed of together.

2.0 The Respondent is a proprietorship of Sh. Narender Kumar Kanthiwal, trading as M/s Kanthwal Services, registered under **GSTIN 07AARPK2562J1ZC** with the CGST Malviya Nagar Division, Delhi South Commissionerate, and engaged in the business of providing manpower recruitment services. The present dispute concerns the tax period July 2017 to March 2018 (FY 2017-18).

3.0 The Senior Audit Officer, GST Audit, Office of the Director General of Audit (Central Receipt), took up scrutiny of the Respondent's returns for FY 2017-18 under Section 61 of the Act read with Rule 99 of the CGST Rules, 2017. Vide Audit Query (LA) No. 6/37 dated 21.03.2022, the audit found a mismatch **of ₹1,11,75,979/-** between the tax paid as per the Respondent's GSTR-9

(₹6,01,00,658/-) and the tax payable as per its financial statements (₹7,12,75,979/-), and further alleged that interest of ₹43,56,622/- had not been paid on account of delayed monthly payment of tax through the year.

3.1 The Respondent's explanation, communicated during the audit correspondence, was that GSTR-3B for September 2017 had in fact been filed on 03.03.2018 with the correct sale figures and tax liability entered, but that within a few days of filing, a technical error on the GST Common Portal rendered the figures in that return obsolete, so that the return came to reflect no liability; the Respondent says it remained unaware of this until March 2019, when the error was corrected by amending the GSTR-3B for March 2019.

3.2 After adjustment of ₹1,07,17,032/- already paid, the audit found a residual short payment of ₹4,58,289/- and separately queried whether interest of ₹30,38,939/- (computed as ₹1,07,17,032 × 18% × 575/365, treating the delay for the September 2017 liability as running to the date of filing of GSTR-3B) had been discharged. The Respondent furnished two DRC-03s in response, but both pertained to tax period 2019-20 and could not be appropriated against the FY 2017-18 demand. A DRC-03 dated 22.03.2023 (ARN AD0703230011128L) for ₹15,00,000/-, paid towards interest for FY 2017-18, was, however, on record.

4.0 On this basis, Demand-cum-Show Cause Notice No. 11/2023-24 dated 27.09.2023 was issued by the Assistant Commissioner, Division-Malviya Nagar, under Section 73 of the Act, proposing: (i) recovery of short-paid tax of ₹4,58,289/- under Section 73(1); (ii) interest of ₹30,38,939/- under Section 50(1) read with Section 73(1) on the delayed payment of ₹1,07,17,032/- for September 2017; (iii) interest of ₹43,56,622/- under Section 50(1) read with Section 73(1) for delayed payment in the other months of FY 2017-18; (iv) interest at applicable rates on the short payment at (i); and (v) penalty under Section 122(2)(a) read with Section 73.

4.1 The Respondent replied on 07.12.2023, accepting the tax demand of ₹4,58,289/- and explaining the September 2017 technical-glitch position with supporting GSTR-3B copies and challans. Thereafter, on 11.12.2023, seven days before the order-in-original was passed, the Respondent deposited the residual tax of ₹4,58,289/- together with interest of ₹4,58,289/- (total ₹9,16,578/-) through DRC-03 (ARN AD0712230216397), and says this payment was also intimated by e-mail to the adjudicating authority.

5.0 The Assistant Commissioner, Division-Malviya Nagar, passed Order-in-Original No. **07/Div-MN/KS/2023-24 (e-order reference ZD071223164543J) dated 18.12.2023.** The order confirmed the demand of tax at ₹4,58,289/- under Section 73(1); interest of ₹30,38,939/- under Section 50(1) read with Section 73(1); interest of ₹43,56,622/- under the same provisions, against which the ₹15,00,000/- already paid on 22.03.2023 was ordered to be appropriated; interest at applicable rates on the tax confirmed at (i); and penalty of ₹45,829/- under Section 122(2)(a) read with Section 73. The order-in-original does not anywhere advert to the DRC-03 dated 11.12.2023.

6.0 Aggrieved with the order in original, the Respondent appealed to the first appellate authority. At the personal hearing on 01.05.2024, the Respondent's authorised representatives, Sh. Pankaj Garg and Sh. R.N. Gupta, reiterated the written submissions and relied on the judgments of the Hon'ble Gujarat High Court in **M/s Vishnu Aroma Pouching Pvt. Ltd. v. Union of India 2020 (38) G.S.T.L. 289** and of the Hon'ble Madras High Court in **Eicher Motors Ltd. v. Superintendent of GST and Central Excise (2024) 14 Centax 323 (Mad.)** No one appeared for the Department.

7.0 The Joint Commissioner, CGST Appeals-II, Delhi, passed Order-in-Appeal No. 172/JC/Central Tax/Appeal-II/Delhi/2024-25 dated 03.07.2024, holding as follows. On the tax demand of ₹4,58,289/-, the appellate authority found that the

DRC-03 dated 11.12.2023 had in fact discharged the tax and applicable interest before the order-in-original was passed, that the adjudicating authority had not considered it, and that confirming the demand without considering this payment violated the principles of natural justice, following M/s Daksh Enterprises v. Commissioner of State Tax (Gujarat High Court); the tax demand was accordingly set aside. On penalty, the appellate authority held that since the payment of 11.12.2023 was made beyond the thirty-day window from the SCN dated 27.09.2023 (which expired on 27.10.2023), the immunity under Section 73(8) was not available, and upheld the penalty of ₹45,829/-. On interest for September 2017, the appellate authority accepted that the Respondent had in fact deposited the entire tax of ₹1,07,18,605/- for that month, through six challans between 16.01.2018 and 15.02.2018, before filing GSTR-3B on 03.03.2018, and recomputed interest for that month by running it only to each challan's payment date, arriving at ₹5,22,204/- in place of ₹30,38,939/-. Recomputing interest for the remaining months of FY 2017-18 on the dates actually established from the record, the appellate authority arrived at a total interest liability for FY 2017-18 of ₹40,47,151/-, and, after crediting the ₹15,00,000/- already paid, directed payment of the balance of ₹25,47,151/-. The order-in-appeal accordingly modified the order-in-original to this extent and disposed of the appeal under Section 107(12) of the Act.

8.0 The Commissioner, CGST Delhi South, reviewed the order-in-appeal under Section 112(3) of the Act. By Review Order No. 188/Commr./GST-Delhi South/2024-25 dated 26.12.2024, the Commissioner directed the Deputy/Assistant Commissioner, Division-Malviya Nagar, to file the present appeal, on two grounds: first, that the tax demand of ₹4,58,289/- ought not to have been set aside merely because the DRC-03 dated 11.12.2023 was filed at the appellate stage and not before the adjudicating authority, since the amount would have been liable to be confirmed with interest and penalty in any event; and

second, that the appellate authority erred in treating the dates on which amounts were credited to the Electronic Cash Ledger as the dates of payment of tax, when it is the date of debit from the Electronic Cash Ledger, on filing of the return, that in the Department's submission constitutes payment to the Government. The present appeal was accordingly filed.

9.0 The Respondent has filed a Cross Objection under Section 112(5) of the Act read with Rule 111(3) of the CGST Rules, 2017, seeking dismissal of the Department's appeal, deletion of the penalty of ₹45,829/-, and a further reduction of the surviving interest balance of ₹25,47,151/- below what the order-in-appeal allowed, relying principally on the judgments of the Hon'ble Gujarat High Court in **Arya Cotton Industries v. Union of India 2024 (20) Centax 8 (Guj.)**, Symphony Limited v. Union of India, **M/s Vishnu Aroma Pouching Pvt. Ltd. v. Union of India and Indo Swiss Exports v. Union of India**, and of the Hon'ble Madras High Court in **Eicher Motors Ltd. v. Superintendent of GST and Central Excise**, for the proposition that interest under Section 50(1) ceases to run once tax is credited to the Government's account through Form GST PMT-06, and does not continue to run merely because the return incorporating that payment is filed later.

10.0 The principal questions that arise for consideration are: whether the tax demand of ₹4,58,289/- set aside by the order-in-appeal ought to be restored; whether interest under Section 50(1) is to be computed to the date on which tax stands credited to the Government's account or to the later date on which it is debited from the Electronic Cash Ledger on filing of the return; the correct quantum of interest for FY 2017-18 in consequence; and whether the penalty of ₹45,829/- is sustainable.

11.0 Heard both sides.

12.0 The Department's Authorised Representative, Sh. Deepak Kumar Sharma submits, on the tax demand, that the Respondent did not place the DRC-03 dated 11.12.2023 before the adjudicating authority in time for it to be considered and thus the failure to consider it was accordingly not an error attributable to the adjudicating authority, and that even if the payment had been placed on record, the tax amount was liable to be confirmed with applicable interest and penalty**,** since a belated payment does not retrospectively erase a short payment that had subsisted through the return period.

12.1 On interest, it is submitted that the interest demand of ₹43,56,622/- was arrived at by the Senior Audit Officer through a systematic exercise, mapping the statutory due dates for each month of FY 2017-18 against the actual GSTR-3B filing or ECL-debit dates recorded in the GSTN backend, and applying the statutory rate to the cash component of the delay; that the appellate authority substituted this verified computation with one based on what the Department describes as a defective reconciliation exercise; and that the original demand of ₹43,56,622/-, along with the September 2017 figure of ₹30,38,939/-, ought to be restored in full. Relying on Section 50(1) as it stood applicable, it is submitted, that interest runs until the date the return incorporating the payment is filed, since it is only on filing of the return that the amount is debited from the Electronic Cash Ledger and applied against the tax liability; depositing money into the electronic cash ledger, does not by itself discharge the liability.

12.2 On penalty, it is submitted that Section 73(8) requires both tax and interest to be paid within thirty days of the show cause notice for the proceedings to stand concluded without penalty; that the SCN was issued on 27.09.2023 and the thirty-day window accordingly expired on 27.10.2023; that the Respondent's payment on 11.12.2023 came forty-five days after that window closed and only seven days before the order-in-original; and that the penalty of ₹45,829/-, being the statutory minimum of ten per cent of the tax short paid under Section 122(2)(a) read with

Section 73, was rightly and inevitably imposed once the thirty-day window was missed.

13.0 The Respondent's Counsel, Sh. Naman Gupta, that the entire principal shortfall of ₹4,58,289/- was deposited, along with interest on that amount, seven days before the order-in-original was passed; that the Respondent could do no more than intimate this payment to the adjudicating authority, which it did by e-mail; and that confirming the very same demand a second time, when it already stood discharged before adjudication concluded, cannot be sustained merely because the adjudicating authority's own office did not process the intimation in time.

13.1 On the interest computation, the Respondent' submission is that Section 50(1) of the Act, as substituted with retrospective effect from 1 July 2017 by the Finance Act, 2021, confines interest on tax paid by debiting the Electronic Cash Ledger to the period the tax remains unpaid, and that once an amount stands credited to the Government's account through a PMT-06 challan, the tax stands paid to that extent, whatever the date on which the corresponding return is later filed. Reliance is placed, for this proposition, on the judgments in Arya Cotton Industries, Symphony Limited, Vishnu Aroma Pouching and Eicher Motors (Madras High Court) each of which is said to hold that interest under Section 50(1) is referable to the date of credit to the Government's account, not the date of ECL debit on return filing.

13.2 On the facts of September 2017 specifically, it is submitted that the technical glitch that rendered the figures in the GSTR-3B "NIL" was entirely a portal-side failure beyond the Respondent's control, recognized as a class of problem in CBIC's own Circular No. 26/26/2017-GST dated 29.12.2017, and that the entire tax for that month, ₹1,07,18,605/-, was in any event deposited through six challans between 16.01.2018 and 15.02.2018, well before the return was filed on

03.03.2018; interest for that month, it is submitted, should accordingly run only to each challan's date, exactly as the order-in-appeal computed.

13.3 On the residual interest balance of ₹25,47,151/-, the Respondent submits that this ought to be reduced further by ₹4,58,289/-, being the interest component of the DRC-03 dated 11.12.2023, on the footing that this payment should also be credited against the balance.

13.4 On penalty, it is submitted that the demand arose out of a bona fide reconciliation dispute flagged by audit, not out of any allegation of fraud or suppression; that ₹15,00,000/- of the interest liability had already been paid before the SCN was even issued; that no mens rea or contumacious conduct is shown, as required for a penalty of a penal character **under the principle in Hindustan Steel Ltd. v. State of Orissa;** and that in any event Section 122(2)(a) is not the correct provision to invoke in a Section 73 proceeding, that provision being confined, in the Respondent's submission, to cases outside Section 73 itself.

14.0 ISSUES FOR DETERMINATION

Issue No. I: Whether the order-in-appeal erred in setting aside the tax demand of ₹4,58,289/- on the ground that the DRC-03 dated 11.12.2023 was not considered by the adjudicating authority.

Issue No. II: Whether interest under Section 50(1) of the Act is to be computed to the date on which the tax amount stands credited to the Government's account, or to the later date on which it is debited from the Electronic Cash Ledger on filing of the return.

Issue No. III: What is the correct quantum of interest payable for FY 2017-18 in consequence, and whether the Cross Objector is entitled to any further credit against the balance of ₹25,47,151/- confirmed by the order-in-appeal.

Issue No. IV: Whether the penalty of ₹45,829/- under Section 122(2)(a) read with Section 73 of the Act is sustainable.

15.0 Issue No. I: Whether the order-in-appeal erred in setting aside the tax demand of ₹4,58,289/- on the ground that the DRC-03 dated 11.12.2023 was not considered by the adjudicating authority.

15.1 It is not in dispute that the Respondent deposited ₹4,58,289/- towards tax and a like sum towards interest, a total of ₹9,16,578/-, through DRC-03 dated 11.12.2023, seven days before the order-in-original was signed on 18.12.2023. The order-in-original itself is silent on this payment; it proceeds throughout on the footing that the shortfall of ₹4,58,289/- remained outstanding, and confirms it as a fresh demand under Section 73(1) without any reference to the intervening deposit.

15.2 The Respondent has submitted that regarding deposit of an amount of Rs.9,16,578/- the adjudicating authority was not informed whereas the Department was already informed through email regarding deposit of tax and interest before OIO was pronounced. The amount of tax and interest due on that amount had already been deposited in the Government's account before the pronouncement of the OIO. A demand under Section 73(1) exists to fix what a person owes and to direct that it be paid; it is not a tool for recovering, a second time, an amount that has already been received. A person cannot be vexed twice for the same cause of action. Once the short-paid tax stood discharged on 11.12.2023, there was, by 18.12.2023, nothing left of that particular shortfall for Section 73(1) to operate upon. The order-in-appeal was correct to hold that confirming the demand afresh, without any application of mind to a payment already on record, could not stand.

15.3 Issue No. I is accordingly answered against the Department. The order-in-appeal setting aside of the tax demand of ₹4,58,289/- is affirmed.

16.0 Issue No. II: Whether interest under Section 50(1) of the Act is to be computed to the date on which the tax amount stands credited to the Government's account, or to the later date on which it is debited from the Electronic Cash Ledger on filing of the return.

16.1 It is the plea of the Appellant that the interest is to be calculated up to the date when it was debited in the account of the Government and not on the date when it was credited in the electronic cash ledger.

To decide this issue, it is necessary to reproduce Section 50(1) of the CGST, Act,2017 which is as under:

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

16.2 In this Appeal this Tribunal has to see that, once cash has actually reached the Government's account through a PMT-06 challan, does interest keep running until the later date the taxpayer files the return that debits the Electronic Cash Ledger for that amount, or does it stop at the earlier date of credit.

16.3 (a) Now let us examine the statutory mechanism for payment of tax. A registered person deposits money under Section 49 by generating a challan in Form GST PMT-06; on realization of that challan, the amount is credited to the Government's account and, as a deeming fiction under the Act, treated as credited to the person's Electronic Cash Ledger from the date of that credit to the authorised bank, not from the later date the ledger entry is drawn upon to discharge a specific month's liability.

16.3 (b) This Tribunal is fortified by judgments of various High Courts. The Hon'ble Gujarat High Court in **M/s Vishnu Aroma Pouching Pvt. Ltd. v. Union of India, 2020 (38) GSTL 289** has observed that where a taxpayer whose GSTR-3B for August 2017 was rendered impossible to file by portal failures, but who had paid the entire tax through challans well before the return was eventually filed, was held not liable to interest for the period between payment and the belated filing.;

16.3 (c) Similarly, the Hon'ble Madras High Court in **Eicher Motors Ltd. v. Superintendent of GST and Central Excise, (2024)14 Centax 323 (Mad.)** has held that interest under Section 50 is not attracted once an amount equal to the tax due is available in the Electronic Cash Ledger.

Further in **Arya Cotton Industries & Anr. v. Union of India (2024) 20 Centax 8 (Guj.) Hon’ble High Court of Gujarat** has held that interest under Section 50 runs only to the date of credit to the Government's account and not to the date of debit from the Electronic Cash Ledger on filing of the return, describing the ledger, once credited, as money already handed over to the Government rather than money still held back by the taxpayer.

16.3 (d) The Hon’ble High Court of Karnataka in case of **Bangalore International Airport Ltd. Vs Union of India (2025) 37 Centax 227 (Kar.)**

and Hon'ble High Court of Gujarat in case of **Symphony Ltd. Vs Union of India (2025) 36 Centax 250 (Guj)** have taken the similar view that where assessee had deposited cash portion of tax liability on or before due date, assessee was not liable to pay interest on cash portion on ground that there was delayed filing of returns since such deposit was credited to Government account and liability was discharged from deposit date. Debit at return filing being a mere accounting entry, hence interest could not be charged for period between deposit and return filing and related recovery was unsustainable.

16.4 This Tribunal also took notice of the latest development which took place , at 53rd meeting of the Goods and Services Tax Council wherein it recommended an amendment to Rule 88B of the CGST Rules to exclude, from the interest computation, amounts already credited to the Electronic Cash Ledger before the due date of a return but debited only on the belated filing of that return. That amendment, given effect from 10.07.2024, addresses a narrower fact pattern than the one before this Tribunal, since it speaks to amounts credited on or before the due date rather than after it; it is referred to here only because it reflects the same underlying principle that once money has reached the Government's account, holding it there pending the mechanical act of filing a return is not, in substance, a continuing default in payment of tax.

16.5 The Department has not placed before this Tribunal any judgment of a jurisdictional High Court or of the Hon'ble Supreme Court taking the contrary view, that interest continues to run past the date of credit to the Government's account merely because the return debiting the ledger is filed later. In the absence of any such authority, and given the consistent view taken in the decisions referred to above, this Tribunal holds that, for tax paid by depositing cash through Form GST PMT-06, interest under Section 50(1) runs from the due date up to the date the amount is credited to the Government's account, and not up to the later date on which the Electronic Cash Ledger is correspondingly debited.

16.6 Issue No. II is accordingly answered in favour of the Respondent and against the Department. Interest under Section 50(1) ceases to run once tax stands credited to the Government's account, whatever may be the date of the subsequent debit entry in the Electronic Cash Ledger.

17.0 Issue No. III: What is the correct quantum of interest payable for FY 2017-18 in consequence, and whether the Cross Objector is entitled to any further credit against the balance of ₹25,47,151/- confirmed by the order-in-appeal.

17.1 It is not disputed that the entire tax of ₹1,07,18,605/- for that month was deposited through six challans dated between 16.01.2018 and 15.02.2018, all before the return was filed on 03.03.2018. Interest for September 2017 is accordingly correctly computed, as the order-in-appeal computed it, by running it from the due date of 20.10.2017 to each challan's own date, giving a figure of ₹5,22,204/-, and not to ₹30,38,939/-, which the order-in-original arrived at by running interest to the date of return filing.

17.2 For the remaining months of FY 2017-18, the record does not show any instance of cash being credited to the Government's account materially earlier than the date on which the corresponding return was filed; the delay for those months arose from late filing simpliciter, not from a portal failure of the kind that affected September 2017**.** The order-in-appeal's month-wise recomputation, arrived at after examining the GSTR-3B and challan record placed before it and correcting the due date for December 2017 to 22.01.2018 **in terms of Notification No. 02/2018-Central Tax dated 20.01.2018,** gives a total interest figure for FY 2017-18 of ₹40,47,151/-. So, in the wake of the reasons given in the findings of issue no. 2, the Appellant’s submission that the original figure of Rs.73,95,561/- be restored, cannot sustain and is hereby rejected. This Tribunal sees no basis to disturb that figure, and, for the reasons already given at Issue No.

II, rejects the Department's submission that the original figure of ₹73,95,561/- (₹30,38,939/- plus ₹43,56,622/-) be restored.

17.3 Now let us take up the case of the Cross Objector that the surviving balance of ₹25,47,151/- (₹40,47,151/- less the ₹15,00,000/- already paid on 22.03.2023) be reduced by a further sum of ₹4,58,289/-, being the interest paid along with the tax on 11.12.2023. This plea of the Cross Objector cannot be accepted. The show cause notice, and the order-in-original following it, kept the interest on the September-2017 and other-months' delays (heads (ii) and (iii) of the notice) analytically distinct from the interest chargeable on the ₹4,58,289/- short payment itself (head (iv)). The ₹4,58,289/- paid on 11.12.2023 as interest corresponds, on the facts, to head (iv), the interest on the tax shortfall itself, which stands discharged by that very payment; The Respondent was liable to pay interest on the tax shortfall. It does not relate to, and cannot additionally be set off against, the separate interest liability under heads (ii) and (iii), which is what the figure of ₹40,47,151/- (and the balance of ₹25,47,151/-) represents. To credit the same payment twice, once as satisfying the interest on the tax shortfall and again as reducing the unrelated interest on delayed monthly payments, would be to allow a single sum to discharge two distinct liabilities. The Cross Objector's claim to this further reduction is accordingly rejected**.**

17.4 Issue No. III is answered as follows: the correct interest liability for FY 2017-18 is ₹40,47,151/-; after crediting the ₹15,00,000/- paid on 22.03.2023, the balance payable is ₹25,47,151/-, and no further credit is due against that balance on account of the payment made on 11.12.2023.

18.0 Issue No. IV: Whether the penalty of ₹45,829/- under Section 122(2)(a) read with Section 73 of the Act is sustainable.

18.1 Section 73(8) of the Act provides that where the person chargeable with tax pays it, along with interest payable under Section 50, within thirty days of issue of the show cause notice, no penalty is payable and the proceedings are deemed concluded. The show cause notice here was issued on 27.09.2023; the thirty-day window accordingly closed on 27.10.2023. The payment of 11.12.2023 came well after that date, and indeed only seven days before the order-in-original was passed. Thus, the payment itself was not made within the thirty days and the Cross Objector is liable to pay penalty as per section 73(9) of the Act.

18.2 Section 73(9) fixes the penalty payable, on confirmation of a demand under that section, at ten per cent of the tax or ₹10,000/-, whichever is higher; Section 122(2)(a) prescribes an identical formula, for the same category of case, of ten thousand rupees or ten per cent of the tax due, whichever is higher. The two provisions are not in competition; invoking Section 122(2)(a) read with Section 73 the penalty imposed by the Department/ Appellant is justified. There is no justification to differ with the findings recorded on this point in OIO and OIA as the order-in-original and the order-in-appeal have both done, is standard and correct practice in a Section 73 proceeding, and the Cross Objector's submission that Section 122(2)(a) is impermissible in a Section 73 case does not withstand a reading of the two provisions together.

18.3 The Cross Objector's reliance on **Hindustan Steel Ltd. v. State of Orissa, AIR 1970 SC 253,** for the proposition that penalty ought not to follow absent contumacious conduct, is of no avail and is distinguishable on facts. That principle laid down in Hindustan Steel Ltd.(supra) applies with full force to penalties that are genuinely discretionary but Sections 73(8), (9) and (11) of the Act, read together, leave no discretion once the thirty-day window under sub-section (8) has been missed and a demand comes to be confirmed under sub-section (9). The penalty here is not being imposed because of any finding of fraud, deliberate default or dishonest intent, but because Law has fixed a specific,

minimum, non-discretionary consequence for tax paid outside the thirty-day grace period that Section 73(8) allows. That the underlying dispute originated in a bona fide reconciliation exercise, and that the bulk of the interest liability had been paid before the notice even issued, are considerations that speak to the character of the default; they do not, however, alter the statutory consequence once the thirty-day window has in fact been missed. So, no benefit can be granted to the Cross Objector on the basis of the law laid down in Hindustan Steel Ltd. (supra)

18.4 Issue No. IV is accordingly answered against the Cross Objector. The penalty of ₹45,829/- under Section 122(2)(a) read with Section 73 is upheld.

19.0 In the wake of the foregoing discussion and findings, this Tribunal is of the considered opinion that the tax demand of ₹4,58,289/- stands correctly set aside, since it was discharged before the order-in-original was passed; interest under Section 50(1) for FY 2017-18 is correctly quantified at ₹40,47,151/-, leaving a balance of ₹25,47,151/- after crediting the ₹15,00,000/- already paid, with no further credit due against that balance; and the penalty of ₹45,829/- is upheld. The order-in-appeal dated 03.07.2024, having reached precisely this result, calls for no interference. Neither the grounds urged in the Department's appeal nor the further relief sought in the Respondent's cross objection is made out.

20.0 Accordingly, we pass the following order:

ORDER

(a) The order-in-appeal No. 172/JC/Central Tax/Appeal-II/Delhi/2024-25 dated 03.07.2024 is confirmed.

(b) The Department's appeal is dismissed.

(c) The Respondent's Cross Objection is dismissed.

(d) The Respondent shall accordingly pay the balance interest of ₹25,47,151/- for FY 2017-18, if not already paid, together with the penalty of ₹45,829/-, within thirty days of communication of this order.

(e) No order as to costs.

Appeal and Cross Objection stand disposed of.

Announced in open Court.

(Arun Kumar Singal)

(Sanjeev Kumar Jain)

Dated: 15.10.2026