GOODS AND SERVICES TAX APPELLATE TRIBUNAL
ERNAKULAM BENCH
Division Bench :: Court No. I

APPEAL NO: APL/20/ERN/2026

[arising out of the OIA No. No. COC-GST-OOO-APP-144-147 2024-25 JC No. passed by the JC (Appeals), Central Tax & Central Excise, Kochi]

THE COMMISSIONER OF CGST& CE KOCHI .....Appellant

Versus

PARTHAS TEXTILES, ERNAKULAM .....Respondent

for Appellant
Baiju Daniel, AR

for Respondent
A.Krishnan, Advocate
(Proxy for the respondent)

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

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FINAL ORDER NO: 15/EKM/KERALAM/2026

Date of Hearing: 28-09-2026
Date of Order 16-10-2026

Order per: Shri Ramamoorthi Sriram, Member (Technical)

1.0 The present Appeal (APL/ERN/38/2026) has been preferred by the Commissioner CGST & Central Excise Kochi (Appellant) against Order-in-Appeal No. No. COC-GST-OOO-APP-144-147 2024-25 JC dated 07/11/2024 , passed by the Joint Commissioner (Appeals), Central Tax & Central Excise, Kochi. (Appellate Authority)

3.0 Brief Facts of the Case:

3.1 M/s. Parthas Textiles, (GSTIN-32AADRPO 444JLZD) (taxpayer / respondent) is a partnership firm , engaged in retail supply of textiles products, woven fabrics, manmade fiber products and dress materials etc.

3.2 During the audit of the financial records and GST returns of the taxpayer for the period from July 2017 to March 2021, certain discrepancies were noticed. Accordingly show cause notice No. 11/GST/2O23-24 GST (Audit), dated 15/09/2023, was issued by the Assistant Commissioner (Audit), Audit Circle IV.

3.3 The Deputy Commissioner of Central Tax and Central Excise, Ernakulam Division vide Order-in-Original No. 49/2023|GST dated, 27/12/2023 confirmed the entire amount demanded along with interest under Section 50 and imposed penalty under section 73(1). Aggrieved by the said Order, the taxpayer filed an appeal before Joint Commissioner (Appeals) who vide the impugned OIA decided as follows:

(2) I partially allow the appeal viz., A.No,213lGST,/CHN,/ADC-JC /2023-24 dated 19.03.2024 filed by Appellant M/s. Parthas Textiles…… Appellant directed to submit the relevant reconciliation statement / workings provided for the FYs 2017-18, 2018-19, 2019-20 and, 2020-21 before the *Respondent*(The Deputy Commissioner of Central Tax & Central Excise, Ernakulam Division) ……. *Respondent is required to examine the correctness of the computations provided and if found in order, the demand of ITC, interest and proportional penalty to the extent determined as admissible / eligible credit shall stand deleted.*

3.4 Aggrieved by the impugned OIA, the appellant / revenue has filed this appeal before the Tribunal.

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4.0 Grounds of Appeal / Submissions of the Appellant / Revenue.:

4.1 The above decision of the Appellate Authority appears to be not in conformity with the following legal provisions in the CGST Act/Rules:

a. As per Section 107 (11) of the CGST/KSGST Act 2017, the Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:

b. As per Rule 113(11) of the CGST Rules 2O17, the Appellate Authority sha1l, along with its order under sub-section (11) of section 107, issue a summary of the order in FORM GST APL04 clearly indicating the final amount of demand confirmed.

c. The Order-in-Appeal passed by the Joint Commissioner (Appeals) appears to be in contravention of Section 107(11) of the CGST Act, 2Ol7 and Rule 113(1) of the CGST Rules, 2017, in as much as it directs the Deputy Commissioner of Central Tax and Central Excise, Ernakulam Division to verify the documentary proof produced by the Appellant and if found in order, delete the demands to the extent found to be no longer legally tenable.

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d. Further, it is mandatory to issue summary of the order in Form GST APL04 by the Appellate Authority which cannot be done by the respondent/jurisdictional officer as the GST portal is not accessible to the point.

4.2 Shri Baiju Daniel, learned AR for the appellant / revenue asserted the above contentions and requested that the order of the Appellate Authority may be set aside in view of the above and the matter may be remanded to the Appellate Authority for an order on merits.

5 Submissions of the Respondent /Taxpayer

Shri A.Krishnan, Advocate, as proxy, appeared for the respondent / taxpayer agreed with the above contentions of the AR and stated that they do not have any objection to the matter being remanded to the Appellate Authority for a decision on merits.

6 Discussions and Findings:

6.1 We extract the relevant portion of the OIA as follows:

19 ……..Suffice to add that with regard to Appellant's contention that an amount of Rs. 5,51,060/_ {CGST and SGST: Rs 2,75,530) paid as RCM has also been included when calculating the ITC difference between GSTR-3B and GSTR-2A, Respondent is directed to re-verify the claims made by Appellant and if found correct, to delete the amount to the extent determined as admissible credit from the confirmed demand and proportionately from the penalty imposed. …….

…….. Last but not least, Authorized Representative at the time of PH, submitted workings related to GSTR-2A Vs. GSTR-3B ITC comparison, blocked credit U/s. l7(5) and copy of judgment dated 18.12.2023 in W.P (C) No. 33164 of 2023 in the case of Titan Company Ltd. Vs. the Joint Commissioner of GST and Central Excise, Salem and Additional Commissioner (Audit), Coimbatore in support of their arguments. Specifically on the issue of

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blocked credits, Appellant has submitted that the credits have only been accounted in the books of account but not taken in the electronic credit ledger; since the credits have not been taken in ECL, there is no question of reversing the same. Appellant is directed to submit the relevant reconciliation statement/workings provided for the F.Y.s 2017-18, 2018-19,2019- 20 and 2020-21 before the Respondent. Respondent shall examine the correctness of the workings provided and if found in order, delete the demand and proportional penalty to the extent determined as admissible/eligible credit. Accordingly, I partially allow the instant appeal subject to necessary verification by Respondent and compliance.

The order portion reads as follows:

(2) I partially allow the appeal viz., A.No,213 GST,/CHN,/ADC-JC /2023- 24 dated 19.03.2024 filed by Appellant M/s. Parthas Textiles…….Appellant is directed to submit the relevant reconciliation statement /workings provided for the F.Y.s 2017-18, 2018-19, 2019- 20 and 2020-21 before the Respondent ……as discussed at para 19 supra. Respondent is required to examine the correctness of the computations provided and if found in order, the demand of ITC, interest and proportional penalty to the extent determined as admissible, eligible credit shall stand deleted.

6.2 We find that section 107(11) of the CGST Act reads as follows:

The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order

6.3 We find that the Appellate Authority has referred the case back to the

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adjudicating, notwithstanding the provisions of the law which expressly prohibit such a course of action. We find that the statute provides enough powers to the Appellate authority to make further inquiry as may be necessary, which he failed to do, and instead embarked on a course of action expressly forbidden. We therefore have no hesitation in holding that the order in appeal has been passed in violation of the statutory provisions and is liable to be set aside.

6.4 We find support for our decision in the following judgements:

a. Commissioner Of CGST & CE Kochi Versus K.A. Traders cited in 2026 (9) TMI 719 - GSTAT ERNAKULAM

b. M/s. Shyam Traders & Ors. Versus The State of West Bengal & Ors cited in 2026(7) TMI 1748 - CALCUTTA HIGH COURT

c. Anand and Anand (Law Firm) Versus Principal Commissioner CGST cited in 2025 (9) TMI 468 - ALLAHABAD HIGH COURT,

d. Kanha Shree Steels Versus Assistant Deputy Commissioner of CGST cited in 2025 (8) TMI 1060 - ALLAHABAD HIGH COURT

e. Kronos Solutions India Private Limited Versus Union Of India cited in 2024 (2) TMI 135 - ALLAHABAD HIGH COURT.

6.5 We also note that the in this case, there is no dispute with respect to the merits of the appellate order (regarding the need for verification of the reconciliation statement / workings provided by the taxpayer). The dispute is essentially that it should have been done by the appellate authority himself under powers granted to him under section 107(11) of the CGST Act, instead of referring it back to the adjudicating authority (which course of action is expressly prohibited).

7 In view of the above findings, the following order is passed:

a. The order in appeal is set aside and the appeal is allowed and the matter is remanded to the Appellate Authority for fresh consideration.

b. The Appellate Authority shall decide the appeal afresh on the basis of the findings already recorded in the Order-in-Appeal dated 7/11/2024, and shall pass a reasoned order strictly in conformity with the mandate of Section 107(11) of the said Act, without remanding or otherwise referring the matter to the Adjudicating Authority.

c. The Appellate Authority shall afford the petitioners a reasonable opportunity of hearing and conclude the appellate proceedings in accordance with law as expeditiously as possible, within a period of eight weeks from the date of communication of this order.

[Order pronounced in open court]

Subramanya Rayaprol
Vice President

Ramamoorthi Sriram
Member (Technical)

Date: 16/10/2026

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