GSTAT

State Bench Agra

Division Bench Court No. Court I

APL/98/AGR/2026

TRISHUL ASPHALT PRODUCTS **.....Appellant**

Versus

ADDITIONAL COMMISSIONER GRADE 2 APPEALS MATHURA, ADDITIONAL COMMISSIONER, MATHURA & ORS. **.....Respondent**

Quorum

Hon'ble Ajeet Singh, Member(Judicial)
Hon'ble Vivek Kumar, Member (Technical)

Counsel for Appellant
OM PRAKASH SHARMA

Counsel for Respondent
MUKESH KUMAR, D.C./ SR

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 : Yes

Order reference no. : ZN090401026000153H **Date of order :** 16/10/2026

1.	GSTIN/Temporary ID/UIN - 09AQSPG3323L1ZH	
2.	Appeal Case Reference no. - APL/98/AGR/2026	Date - 04/05/2026
3.	Name of the appellant - TRISHUL ASPHALT PRODUCTS , 9837901577s@gmail.com , 9837901577	
4.	Name of the respondant - 1. Shri Prakash Yadav Joint Commissioner(IT) State Tax Headquarters Lucknow , ctithqlu-up@nic.in , 7235002314 2. ADDITIONAL COMMISSIONER GRADE 2 APPEALS MATHURA	
5.	Order appealed against - AD0901241419327	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD090924266848H	Date - 25/09/2024

6.	Personal Hearing - 16/10/2026 23/09/2026 12/08/2026
7.	Order in brief - This present appeal is allowed. First appellate authority is directed to admit the appeal.
Summary of Order	
8.	If demand order then whether demand quantified: No

9.	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
Classification dispute		U/S 74	AGRA BENCH
10.	If remanded with directions:		
	a) Remanded to: Appellate Authority		
	b) Directions subject to which remanded, if any: the first appellate authority is directed to admit the first appeal for deciding it afresh on its virtues and vices after granting a fair opportunity of hearing to taxpayer and department, as well		

Place :AGRA

Signature

Date : 16.10.2026

AGRA Sandeep Yadav

Designation : Stenographer/Law researcher

Jurisdiction :Agra

ORDER

Per. Ajeet Singh (Judicial Member)

(Passed on 16th day of October, 2026)

1. Present appeal has been preferred u/s 112 of Central Goods and Services Tax, Act, 2017/ Uttar Pradesh Goods and Services Tax, Act, 2017 (for short CGST/UPGST, Act) against order dated- 25.09.2024, passed by first appellate authority in appeal no. D-93/2024, year 2021, vide which application moved by appellant/taxpayer u/s 107(11) CGST/UPGST, Act was dismissed resulting dismissal of appeal as barred by limitation prescribed for. Hereinafter in the order, appellant and respondent will be addressed as taxpayer and department, respectively.
2. Facts giving rise to present appeal in nutshell are, that proper officer/ Deputy commissioner state tax, divison-6, Mathura, had passed order dated 26.02.2022, against taxpayer. Initially first appeal u/s 107 of CGST/UPGST, Act, should have been filed within three months form the communication of the Order-in-Original. Taxpayer has filed first appeal on 31.01.2024, in view of amnesty scheme of Central Government launched with the notification no. 53/2023, issued by Central Board of Indirect Taxes and Customs.
3. Learned first appellate authority had registered the first appeal as defective one and fixed the date for hearing. On such date of hearing taxpayer had not appeared either in person or through his authorized representative and learned first appellate authority disposed off such defective appeal by dismissing the same.
4. Learned counsel appearing for taxpayer has submitted that as per notification issued under amnesty scheme, first appeal might be submitted till 31.01.2024, even if period of limitation has already been elapsed subject to payment of tax, interest, fine, fee and penalty arising from the impugned order, as it admitted by taxpayer, further it was provided by such scheme that a sum of equal to twelve and a half percent of the remaining amount of tax in dispute arising form the same order, subject to a maximum of 25 crore rupees in relation to which the appeal has been filed, out of which amount at least 20% should have been paid by debiting from the electronic cash ledger.

5. Learned counsel for appellant has further submitted that appellant had made a bonafide effort to file the appeal under the beneficial provision of notification on. 53/2023 but GST portal did not allow to deposit requisite percentage of pre deposit via electronic cash ledger and therefore entire 12.5% amount was fully debited and secured via electronic credit ledger.

6. Learned departmental representative (DR) has opposed the appeal and prayed for dismissal of the same. He has further submitted that taxpayer was required to deposit 12.5% of tax in dispute as pre deposit and out of such amount 2.5% was to be deposited via electronic cash ledger and thus taxpayer had not complied with the beneficial amnesty scheme issued by CBIC. He has vehemently submitted that where taxpayer did not complied with the conditions of said scheme, he can not be allowed to file the first appeal beyond limitation prescribed for.

7. On hearing the arguments of both sides and perusal of the record showing on GSTAT portal. The question before the Tribunal to answer may be stated as under- i) Whether the rejection of the first appeal as time barred under the amnesty scheme (notification no. 53/23 dated 02.11.2023) solely due to the debit of pre-deposit from the electronic credit ledger instead of electronic cash ledger is legally sustainable?

ii) Whether technical glitches on GST portal impeding a taxpayer form compiling strictly with ledger selection can prejudice the statutory remedy of appeal?

FINDINGS WITH REASON…

8. Admittedly subject to depositing 12.5% of disputed amount of tax (2.5% via electronic cash ledger and 10% via electronic credit ledger) time barred first appeal was allowed to be admitted for hearing under beneficial amnesty scheme for taxpayers who could not filed such appeal with in limitation, whatever the reason. In this matter taxpayer has filed first appeal u/s 107 of CGST, Act on 31.01.2024 against order dated 26.02.2022 passed by adjudicating officer, for which he made payment of pre-deposit amount via electronic credit ledger. Appellant has submitted that due to technical problem on GST portal he could not made the requisite percentage of payment through electronic cash ledger and he made entire payment via electronic credit ledger.

9. It is a well settled principle of law that a taxpayer cannot be made to suffer due to technical glitches or system error on the official portal.

10. In case of M/s Friends Mobile vs State of Bihar and others. CWJC no. 6457 of 2023, Patna High Court has held that where the taxpayer faced some difficulties or paid the pre-deposit using the electronic credit ledger instead of through electronic cash ledger, the appellate authority should not reject the appeal outright on hyper technical grounds.
11. Apart from above, in another case titled M/s Raiyan Traders vs Assistant Commissioner, CWJC no.12994 on 2024, Patna High court has held that where a pre-deposit is paid via electronic credit ledger the first appellate authority ought to have entertain the appeal on merits rather than dismissing it on procedural grounds regarding ledger segregation.
12. Learned DR has also cited a case law of the Patna High Court named **Flipkart Internet Pvt. Ltd.** In which Hon'ble High Court has ruled otherwise as held by it in friends mobile (SUPRA). Arguments raised by learned DR on the point under consideration is not convincing enough because of findings recorded by high court in Flipkart internet pvt. Ltd. have been challenged before Hon'ble Supreme Court who has stayed the verdict of High court and in this matter, outcome is yet to come from Apex Court.
13. Apart from above, a shortfall or misallocation in the case component of a pre-deposit is curable defect and the first appellate authority erred in summarily dismissing the appeal as time barred without providing the appellate a reasonable opportunity of being heard on merit and to make good differential cash payment or rebalance the ledger debits, once the technical issue was raised.
14. In view of above discussion of facts of the case and principle laid down in M/s Friends mobile and M/s Raiyan traders (Supra) I am is of considered opinion that the rejection of the first appeal as time barred under the amnesty scheme (notification no. 53/23 dated 02.11.2023) solely due to the debit of pre-deposit from the electronic credit ledger instead of electronic cash ledger is not legally sustainable. In so far, technical glitches on GST portal impeding a taxpayer from compiling strictly with ledger selection cannot prejudice the statutory remedy of appeal. Accordingly, questions for determination before this tribunal are answered.
15. Resultantly, present appeal is allowed, the order in appeal dated-25.09.2024, dismissing the first appeal as time barred is hereby set aside. Appellant is granted 30 days from the date of receipt this order to pay shortfall cash component of 20% of pre-deposit amount through the electronic cash ledger. Upon such payment the corresponding amount in excess from the electronic credit ledger shall be recredited in accordance with law. Subject to such compliance the first appellate authority is directed to admit the first appeal for deciding it afresh on its virtues and vices after granting a fair opportunity of hearing to taxpayer and department, as well.
16. There is no interim application in the appeal.

17. Order be communicated to first appellate authority for compliance and to all concerned as per rules. In the circumstances, cost of litigation shall be borne by respective parties.

18. Order is pronounced on 16.10.2026, in open court.

(Ajeet Singh)

(Vivek Kumar)

Dated: 16.10.2026