GSTAT

State Bench Ghaziabad

Division Bench Court No. Court I

Filing No 2026109301001688

ANILM KUMAR JAIN **.....Appellant**

Versus

ELECTRO CONTROL & SWITCHGEARS, PROPRIETOR, 10/94 B 4 RAJENDER NAGAR SECTOR 3 SAHIBABAD UPGZB 201005 **.....Respondent**

Quorum

Hon'ble Dr. Sanjay Kumar Chandhariyavi, Member(Judicial)
Hon'ble Sungita Sharma, Member (Technical)

Counsel for Appellant **Counsel for Respondent**

ORDER

1 Preliminary

The case record shows that proceedings were initiated against M/s Electro Control and Switchgears.

ASMT-10 was issued on 01.05.2023, requiring a reply by 30.05.2023. DRC-01 No. ZD090923340809U was then issued on 27.09.2023, requiring a reply by 27.10.2023. The Department states that reminders were issued on 07.11.2023 and 07.12.2023. It also states that an opportunity of hearing was given between 07.12.2023 and 12.12.2023, but the taxpayer neither replied nor appeared. The officer therefore passed an ex parte order on 16.12.2023, confirming tax of Rs. 97,666.80, interest of Rs. 1,07,433.48 and a penalty of Rs. 20,000, totalling Rs. 2,25,100.28. This order, No. ZD0912232685357 dated 16.12.2023, was passed under Section 73(9) by Krishna Murari Mishra, Assistant Commissioner, Khand-7.

The First Appellate Authority treated the discrepancy as a clerical or human error and found that the requirements of Section 16(2) had been met. It applied CBIC Circular No.

183/15/2022-GST dated 27.12.2022. It also found that the adjudicating authority had not given a personal hearing. The appeal was allowed and the entire demand was set aside.

2. We have heard the learned Authorised Representative and examined the appeal memorandum, the order under challenge and the material on record. Admission of an appeal is not a mere formality. Before examining the merits, the Tribunal must be satisfied that the appeal is maintainable and meets the conditions for admission. Filing an appeal does not by itself give the appellant a right to a hearing on merits. The right of appeal comes from the statute and must be exercised according to the conditions laid down by law.

In Ganga Bai v. Vijay Kumar, (1974) 2 SCC 393, the Supreme Court explained the difference between a suit and an appeal. A civil suit may ordinarily be filed unless the law bars it. An appeal, however, can be filed only if the statute permits it.

In Anant Mills Company Ltd. v. State of Gujarat, (1975) 2 SCC 175, the Supreme Court recognised that the legislature may place conditions on the right of appeal. However, those conditions must not be so burdensome that the right becomes practically meaningless.

3 The question at the admission stage

This is admittedly a departmental appeal. The first question is whether the Department has met the statutory and administrative conditions for such an appeal. The fact that the Department is dissatisfied with the order does not by itself answer this question.

Section 120 of the Uttar Pradesh Goods and Services Tax Act, 2017 is headed “Appeal not to be filed in certain cases”. Section 120(1) provides: (1) The Commissioner may, on the recommendations of the Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as he may deem fit, for the purposes of regulating the filing of appeal or application by the officer of the State tax under the provisions of this Chapter.” Under this provision, the Commissioner, State Tax, Uttar Pradesh, issued Circular No. 2425008 dated 05.07.2024. It fixes a monetary limit of Rs. 20,00,000 for departmental appeals before GSTAT, subject to specified exceptions. Its purpose is to reduce government litigation and use judicial resources properly.

The State continued its policy for managing litigation through Circular No. 252/2026-27/State Tax dated 22.05.2026. This circular concerns monetary limits, review of departmental appeals and litigation before GSTAT and the higher constitutional courts. The policy on monetary limits therefore cannot be treated as an administrative arrangement that is no longer in force.

4 Issues for determination

(i) Does the monetary limit of Rs. 20,00,000 apply to this departmental appeal?

(ii) Is the disputed amount, calculated in the manner prescribed by the circular, below that limit?

(iii) If so, has the Revenue specifically pleaded and established a recognised exception?

(iv) Is a statement that the Commissioner has approved or authorised the appeal sufficient to establish an exception?

(v) Does filing and pursuing the appeal without establishing an exception violate the binding litigation policy?

(vi) What is the consequence of this failure at the admission stage?

(vii) Can the appeal be admitted and heard on merits?

5 Method for calculating the disputed amount

The circular prescribes the following method for applying the monetary limit:

(i) Where tax is disputed, with or without interest or penalty, only the aggregate disputed tax, including CGST, SGST or UTGST, IGST and Compensation Cess, is taken into account.

(ii) Where only interest is disputed, the disputed interest is considered.

(iii) Where only penalty is disputed, the disputed penalty is considered.

(iv) Where only late fee is disputed, the disputed late fee is considered.

(v) Where interest, penalty and/or late fee are disputed, but no tax is disputed, their aggregate disputed amount is considered.

(vi) Where an erroneous refund is disputed, the disputed refund amount, including the relevant tax and Compensation Cess components, is considered.

(vii) The limit applies to the disputed amount for which the appeal or application is proposed.

(viii) Where a composite order disposes of more than one appeal or demand notice, the relevant amounts are taken together. The limit is not applied separately to each appeal or demand notice.

Thus, where the demand includes tax, interest and penalty, only the disputed tax and cess are counted for this purpose. Interest and penalty are not added. If the amount calculated under the circular is below Rs. 20,00,000, the monetary restriction applies unless a recognised exception is established. In this case, the disputed demand consists of tax of Rs. 97,666.80, interest of Rs. 1,07,433.48 and a penalty of Rs. 20,000, totalling Rs. 2,25,100.28. This is below Rs. 20,00,000. We therefore find that the monetary restriction applies to this appeal.

6 Exceptions to the monetary limit

The enquiry does not end merely because the amount is below the monetary limit. Clause 4 of the circular permits departmental litigation, regardless of the amount involved, in the following circumstances:

(i) A provision of the CGST Act, UPGST Act, IGST Act or GST (Compensation to States) Act has been held unconstitutional.

(ii) A rule or regulation made under any of those Acts has been held to exceed the authority conferred by the parent Act.

(iii) An order, notification, instruction or circular issued by the Government or the Board has been held to be contrary to the relevant GST Act or Rules.

(iv) The matter concerns valuation, classification, refunds, place of supply or another issue which is recurring and/or involves interpretation of the Act, Rules, notification, circular, order or instruction.

(v) Strictures or adverse comments have been made, and/or costs have been imposed, against the Government, the Department or its officers.

(vi) The Commissioner considers it necessary to contest a case or class of cases in the interest of justice or revenue.

7 Burden of establishing an exception

An exception cannot be assumed merely because the Department wishes to file an appeal. The party relying on an exception must show that it applies. Once the disputed amount is found to be below Rs. 20,00,000, the Revenue must identify the exception, state the facts supporting it and show the legal or administrative basis for relying on it. If the Revenue relies on the Commissioner's power to contest a case in the interest of justice or revenue, it must produce the order or recorded opinion showing that the Commissioner exercised that power in this particular case. The Tribunal cannot assume that these requirements have been met. Merely stating that the Commissioner permitted the appeal is not enough.

8 Authorisation and compliance with the monetary limit

Permission to file an appeal and compliance with the conditions governing it are separate matters. Authorisation alone does not establish an exception to the monetary limit. Section 112(3) of the UPGST Act, 2017 provides: "(3) The Commissioner may, on his own motion, or upon request from the Commissioner of central tax, call for and examine the record of any order passed by the Appellate Authority or the Revisional Authority under this Act or under the Central Goods and Services Tax Act, 2017 for the purpose of satisfying himself as to the legality or propriety of the said order and may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within six months from the date on which the said order has been passed or the date, as may be notified by the Government, on the recommendations of the Council, for the purpose of filing application before the Appellate Tribunal under this Act, whichever is later, for determination of such points arising out of the said order as may be specified by the Commissioner in his order." This provision requires the Commissioner to examine the record, form an opinion on whether the order is legal and proper, and identify the points to be placed before the Tribunal. The record must allow the Tribunal to examine the basis of that decision. Merely stating that the Commissioner granted permission does not meet this requirement.

Section 112(4) further provides: "(4) Where in pursuance of an order under sub-section (3) the authorised officer makes an application to the Appellate Tribunal, such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order under sub-section (11) of section 107 or under sub-section (1) of section 108 and the provisions of this Act shall apply to such application, as they apply in relation to appeals filed under sub-section (1)." An application authorised under Section 112(3) is therefore treated as an appeal under the Act. This authorisation does not remove the need to comply with Section 120 and

the monetary-limit instructions issued under it. If the Revenue relies on the residual exception, the record must show that the Commissioner considered this particular case and formed the opinion that it should be contested despite the monetary limit. The basis of that opinion must be clear. General approval is not enough. Otherwise, every appeal below the limit could proceed on routine authorisation, defeating the policy.

9 Continuing litigation policy of Uttar Pradesh

Circular No. 252/2026-27/State Tax dated 22.05.2026 provides a system for reviewing cases through Zonal Law Committees. It continues the policy of limiting departmental litigation by monetary thresholds, subject to specified exceptions. The Department must follow this policy consistently. It cannot treat the policy as binding when it helps the Department and optional when it restricts an appeal. The State must conduct litigation responsibly and in line with its declared policy. In Director of Income Tax v. S.R.M.B. Dairy Farming (P) Ltd., the Supreme Court recognised the need to reduce unnecessary government litigation and repeated proceedings at different judicial levels.

10 Binding effect of departmental circulars

The Department cannot rely on a statutory system for controlling litigation when convenient and ignore it simply because an order has gone against it. In Ranadey Micronutrients v. Collector of Central Excise, (1996) 10 SCC 387, the Supreme Court stressed the need for consistency and discipline in following departmental circulars. It held that the Revenue could not reject the Board's circular on the ground that it was inconsistent with a statutory provision. The principles applied under similar revenue laws also support the view that instructions issued by the competent revenue authority to regulate departmental appeals bind departmental officers.

11 The right of appeal and the conditions governing it

The Revenue may argue that Section 112 gives it a statutory right of appeal and that an appeal directed by the Commissioner must be admitted. We cannot accept this as an absolute rule. Section 112 must be read along with the provisions governing departmental litigation, including Section 120. As explained in Ganga Bai and Anant Mills, the right of appeal is created by statute and may be subject to conditions. The Tribunal's power to hear appeals does not require it to admit every departmental appeal without checking whether those conditions have been met.

12 Whether an exception is established in this case

We have examined the record and FORM GST APL-07. The appellant states that the appeal has been filed under Section 112(3) of the UPGST Act. However, the Revenue has neither specifically pleaded nor established any recognised exception to the monetary limit. There is no material showing that a provision of the relevant GST Acts has been held unconstitutional, that a rule has been held contrary to its parent Act, or that a notification, circular or instruction has been held invalid. The Revenue has also not shown that this case involves a recurring question of law requiring an authoritative decision, or that adverse comments or costs have been imposed against the Department. Nor is there any recorded opinion of the Commissioner showing that this particular case should be contested in the interest of justice or revenue despite the monetary limit. We therefore find that the Revenue has failed to establish any applicable exception.

13 Effect of the monetary limit

The right of appeal must be exercised within the statutory framework. In State of Maharashtra v. Greatship (India) Ltd., the Supreme Court again stated that an appeal is created by statute. The Department's right of appeal is therefore subject to the conditions and controls laid down in the statutory scheme. In Commissioner of Commercial Tax v. Vikram Cement, decided on 5 February 2026, the Supreme Court considered the Rs. 20 lakh GST monetary limit and held that the circular also applied to pending appeals. It dismissed the appeals involving a tax component below the prescribed limit and left the legal question open for an appropriate case. In Director of Income Tax v. S.R.M.B. Dairy Farming (P) Ltd., the Supreme Court noted that repeated government litigation adds to the growing number of pending cases. It referred to the National Litigation Policy and the need to obtain decisions on meaningful issues, instead of pursuing repeated judicial scrutiny for its own sake. In Commissioner of Customs, New Delhi v. Balaji Overseas, the Supreme Court also disposed of the appeals because of their low tax effect, having regard to the applicable monetary limit. The disputed amount in those appeals was Rs. 1,28,73,481.

Tax law is part of public law. The State has wide powers to collect taxes, but it must exercise those powers according to law. The same rule applies when the State conducts litigation. An appeal is not an unrestricted means of challenging every adverse order. The amount involved, the legal importance of the issue, the public interest, the cost of litigation and the need for an authoritative decision must all be considered. The Rs. 20 lakh limit does not mean that a smaller demand has no legal importance. It reflects the policy that public resources should ordinarily be saved by avoiding departmental appeals below that amount, unless a specified exception applies.

14 Maintainability must be examined before the merits

The Revenue has asked us to examine the merits of the dispute. We decline to do so because maintainability must be decided first. The Tribunal cannot decide the merits and then examine whether the appeal met the conditions for admission. Even an arguable case on merits does not by itself overcome the binding policy on monetary limits.

15 Public interest and responsible litigation

Government litigation uses judicial time, departmental resources and public money. It also takes the time of officers and taxpayers and uses the Tribunal's limited capacity. The monetary-limit policy is intended to ensure that the State litigates when the amount involved, the legal importance or recurring nature of the issue, the public interest, or a recognised exception justifies it. The Act also protects the Revenue from being treated as having accepted a legal position merely because it did not appeal under the monetary-limit policy. Section 120(2) and (3) of the UPGST Act provide: "(2) Where, in pursuance of the orders or instructions or directions issued under sub-section (1), the officer of the State tax has not filed an appeal or application against any decision or order passed under the provisions of this Act, it shall not preclude such officer of the State tax from filing appeal or application in any other case involving the same or similar issues or questions of law." "(3) Notwithstanding the fact that no appeal or application has been filed by the officer of the State tax pursuant to the orders or instructions or directions issued under sub-section (1), no person, being a party in appeal or application shall contend that the officer of the State tax has acquiesced in the decision on the disputed issue by not filing an appeal or application." Section 120(4) further provides: "(4) The Appellate Tribunal or court hearing such appeal or application shall have regard to the circumstances under which appeal or application was not filed by the officer of the State tax in pursuance of the orders or instructions or directions issued under sub-section (1)."

16 Findings

(i) This is a departmental appeal governed by the monetary-limit policy for departmental litigation. The relevant disputed tax is Rs. 97,666.80, which is below Rs. 20,00,000. The Revenue has failed to establish any recognised exception. There is no material showing that the Commissioner specifically exercised the residual power on reasons relating to this case to bring the appeal within an exception. Merely stating that the Commissioner approved or authorised the appeal does not satisfy the statutory requirements and the binding litigation policy. This appeal therefore cannot be admitted for a decision on merits.

Order

17. For the reasons given above, we hold that this departmental appeal concerns disputed tax of Rs. 97,666.80, which is below the prescribed monetary limit of Rs. 20,00,000. The Revenue has failed to establish any recognised exception. The appeal therefore does not meet the conditions for admission and maintainability before this Tribunal. Accordingly, the appeal is dismissed at the threshold because the disputed amount is below the prescribed monetary limit and the Revenue has failed to establish an

applicable exception.

We have not examined or decided the merits of the tax dispute. Nothing in this order shall be treated as approving or rejecting the correctness of the order under challenge on merits. The dismissal is limited to the maintainability of the departmental appeal under the applicable monetary-limit policy.

The appeal is disposed of accordingly. The Registrar shall supply a copy of this order to the appellant.

Pronounced in open Tribunal proceedings.

(Dr. Sanjay Kumar Chandhariyavi)

(Sungita Sharma)

Dated: 15.10.2026