GSTAT

Division Bench Court No. Court I

APL/28/DEL/2026

VISHAL CHAUDHARY ....**Appellant**

Versus

DIRECTOR, 13/61 RAJ NAGAR GHAZIABAD UPGZB 201002 , HONOUR LANE LOGISTICS (INDIA) PRIVATE LIMITED ....**Respondent**

Counsel for Appellant **Counsel for Respondent**

Hon'ble Sh. Sanjay Kumar Aggarwal, Member(Judicial)
Hon'ble Sh. Rajiv Kapoor, Member (Technical)

ORDER

Present – Shri Rahul Kumar, DC on behalf of the Appellant.

Shri Ankit Awal, Ld. Counsel on behalf of the Respondent.

1. This appeal has been filed by the Department under sub-section (3) of Section 112 of the Central Goods and Services Tax Act, 2017 (here in after called "CGST Act") against Order-in-Appeal bearing No. Order-in-Appeal No.: 88 /2021-22 dated 12.10.2021 (here in after called "Impugned Order") passed by the Appellate Authority, whereby the refund of accumulated Input Tax Credit (here in after called "ITC") claimed by the Respondent on account of export of services, without payment of tax, for the period 01.04.2018 to 31.03.2019, amounting to Rs. 21,13,189/-, which had earlier been rejected by the Adjudicating Authority, was allowed.
2. Briefly stated, the Respondent, M/s Honour Lane Logistics (India) Private Limited, is stated to be rendering freight forwarding and allied shipment-handling services in India pursuant to a Service Agreement dated 15.02.2016 with its overseas group entity, M/s Honour Lane Shipping Limited, Hong Kong. The Adjudicating Authority rejected the Respondent's refund claim on the ground that the Respondent, being an "intermediary", the place of supply of its services stood governed by clause (b) of sub-section (8) of Section 13 of the IGST Act, being the location of the supplier of service, i.e. India, and that the transaction accordingly failed to satisfy the condition of "export of services" under Section 2(6) of the IGST Act. However, the Appellate Authority, by the Impugned Order, set

aside the said rejection and allowed the refund. In conclusion, the appellate authority held as under;

"*Accordingly, conditions of said Section 13(9) are fully complied. As such I am of considerate view that supply of service by the appellant do not fall under the ambit of intermediary service and place of supply is outside India not within the taxable territory of India, as observed by the Adjudicating Authority in the impugned order*."

Aggrieved, the Appellant has filed the present appeal before this Tribunal, reiterating that the Respondent is an intermediary and that the place of supply of its services is governed by Section 13(8)(b) of the IGST Act, 2017.

3. At the very outset, it is noticed that the dispute, both as raised by the Adjudicating Authority and as urged by the Appellant before this Tribunal, turns entirely upon determination of the place of supply of the services rendered by the Respondent, namely, whether the same falls to be determined under Section 13(9) of the IGST Act or under Section 13(8)(b) of the IGST Act, which, during the period in dispute, applied to intermediary services. The authorized representative for the Respondent, during the hearing, submitted that the place of supply in his case falls under Section 13(9) of the IGST Act prevailing at the relevant time and not under Section 13(8)(b) of the IGST Act as claimed by the Appellant.
4. Sub-section (5) of Section 109 of the CGST Act, as substituted by the Finance Act, 2023 with effect from 01.08.2023, provides that the Principal Bench and the State Bench shall hear appeals against the orders passed by the Appellate Authority or the Revisional Authority, provided that the cases in which any one of the issues involved relates to the place of supply shall be heard only by the Principal Bench. The jurisdiction over place of supply matters accordingly vests exclusively in the Principal Bench, to the exclusion of the State Benches.
5. It is also noted that the Appellant has itself filed an undertaking before this Bench affirming that the present case pertains to the Principal Bench. Further, learned counsel for the Respondent, appearing through video conferencing, has, upon being heard, also conceded that the matter involves a question relating to the place of supply. Both sides are, therefore, ad idem that the appeal is not maintainable before this Bench.
6. In view of the foregoing, and having regard to the undertaking filed by the Appellant and the concession made by learned counsel for the Respondent, since the appeal squarely involves a question relating to the place of supply, this Bench has no jurisdiction to adjudicate the matter, and only the Principal Bench of the GST Appellate Tribunal in terms of Proviso to Section 109(5) of the CGST Act has got jurisdiction to hear this appeal.

7. The appeal, along with the entire case record, is transferred to the Principal Bench, GST Appellate Tribunal, for disposal in accordance with law.
8. The Joint Registrar, Delhi State Bench, is directed to place the case record before the Principal Bench forthwith, and to take all consequential administrative steps necessary for transmission of the appeal. The Registry of this Bench shall transfer the entire case record to the Registrar, Principal Bench, GST Appellate Tribunal, New Delhi. The parties shall appear before the Registrar, Principal Bench, on 14/08/2026.

(Sanjay Kumar Aggarwal)

(Rajiv Kapoor)

Dated: 05.08.2026