GSTAT

Division Bench Court No. Court I

APL/63/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 No. 107/ADC/Central Tax/Appeal-II/Delhi/2023-24 dated 03.07.2023 (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 01.04.2020 to 31.03.2021 was allowed.
2. We have heard the parties and have perused record.
3. It is noticed that the Adjudicating Authority, vide Order dated 22.06.2022, sanctioned the refund claim by holding that the place of supply of the impugned services was outside India. Aggrieved by the said order, the department preferred an appeal before the First Appellate Authority, contending that the place of supply of the services of the respondent would be governed by Section 13(8)(b) of the Integrated Goods and Services Tax Act, 2017, which provides that in the case of intermediary services, the place of supply shall be the location of the supplier of services. The First Appellate Authority, in paragraph 9 of the order dated 03.07.2023 under challenge, observed as under:

"Therefore, in view of the above, I conclude that the respondent is not an intermediary and therefore the general rule under section 13(2) of the IGST Act, 2017 will apply in the respondent's case under which the place of supply shall be the location of the recipient of the services which is Hong Kong in the instant case. Therefore, the Condition No. (iii) of section 2(6) of the IGST Act, 2017 has been met. Accordingly, the respondent's services qualify as 'export of service."

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.

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 himself 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

Announced in open court.