HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 2096 of 2026

Anukul Bindal

.....Petitioner(s)

Versus

Union Of India And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Praveen Kumar
Counsel for Respondent(s)	:	A.S.G.I., Dhananjay Awasthi, Gopal Verma, Krishna Agarawal

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Court No. - 3

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE SWARUPAMA CHATURVEDI, J.

1. Heard Shri Praveen Kumar, learned counsel for the petitioner; Shri Krishna Agarwal, learned counsel for the revenue and, Shri Gopal Verma, learned counsel for GSTN.

2. Submission is, the right of the appeal vested on the petitioner from the date of issuance of the show cause notice 31.03.2023. Though an adjudication order was passed on 01.10.2025 and the provision of Section 107 of the CGST Act 2017, requiring a pre-deposit of 10% of the penalty amount to maintain an appeal, was enforced with effect from 01.10.2025, the right of appeal that vested in the petitioner from before cannot be altered by virtue of the amendment made. Thus, the revenue and the appeal authorities cannot compel the petitioner to deposit 10% of the disputed amount of penalty to maintain the appeal. Also, it cannot be doubted, the unamended proviso to sub-section (6) of Section 107 of the said Act, may never be applied as that was confined to penalties under Section 129 of the said Act.

3. Reliance has been placed on the decision of the Supreme Court in **Hoosein Kasam Dada (India) Limited vs State of Madhya Pradesh & Ors.**, **(1953) 1 SCC 299**.

4. On the other hand, learned counsel for the revenue submits, in view of the subsequent decision of the Supreme Court in **Chandra Sekhar Jha vs Union of India & Anr., Civil Appeal No(s). 1566 of 2022**, decided on

28.02.2022 and another decision of a coordinate bench of this Court in **M/s Ganesh Yadav vs Union of India & Ors., (2015) 6 ADJ 250**, the petitioner is required to make deposit.

5. Matter requires consideration.

6. To the extent submissions being advanced learned counsel for the petitioner may be clearly covered by parent law in **Hoosein Kasam Dada (supra)** and further to the extent the **Chandra Sekhar Jha (supra)** may apply for the purpose of grant stay by the appellate authority, at present, the writ petition is being entertained.

7. Learned counsel for the revenue prays for and is granted four weeks time to file counter affidavit. Petitioner shall have two weeks thereafter to file rejoinder affidavit.

8. List thereafter.

9. In view of the further reasoning in **M/s Ganesh Yadav (supra)**, the Court retains its jurisdiction to grant waiver in appropriate cases. By way of an interim measure, it is provided, if the petitioner's appeal is filed within a period of two weeks from today, the same may be entertained without requirement of 10% pre-deposit.

(Swarupama Chaturvedi,J.) (Saumitra Dayal Singh,J.)

May 6, 2026
Prakhar