GSTAT

Division Bench Court No. Court I

Filing No 2026109301000044

DEVENDRA SINGH ....Appellant

Versus

ADROIT TECHNICAL SERVICES PRIVATE LIMITED, DIRECTOR, 1/2 TOWN HOME JAYPEE GREENS GREATER NOIDA GAUTAMBUDDHA NAGAR UPGAU 201310 TOWN CENTRE ....Respondent

Counsel for Appellant Counsel for Respondent

Hon'ble Sanjay Kumar Chandhariyavi, Member (Judicial)

Hon'ble Sungita Sharma, Member (Technical)

ORDER

1. Preliminary

This appeal has been preferred by the State Tax Department against order passed in Appeal No. GST-AD090522035034G/185/22 (Year 2020-21, December 20) which was filed under Section 74(9) of the UPGST Act, 2017.The appeal is presently before us at the stage of admission. The Respondent is a registered dealer under the Goods and Services Tax regime. The respondent, Adroit, bearing GSTIN No. 09AAFCA3202J1ZY, is engaged in the business of real estate appraisal services provided on a fee, commission or contractual basis and has its registered office. Is at 7th Floor, Unit No. 703, Tower-C, ATS Bouquet, Plot No. A2/2, Sector-132, Noida, Gautambuddha Nagar, Uttar Pradesh – 201301 . The dispute pertains to the financial year 2020-21 and involves tax of ?1,98,806/-. . Against OIO Appeal No. GST/402/25/ONLINE ARN-AD0905250037334 (Order under Section 73(9) of the U.P. Goods and Services Tax Act, Year 2020-21). Was filed before appellate authority which was partially allowed. Consequently, the demand for tax and interest under the heads of IGST, CGST, and SGS were imposed by the Assessing Officer in the order dated 01.02.2025 passed under Section 73(9) of the GST Act was set aside .

The learned Authorised Representative appearing for the Revenue has urged that the appeal deserves to be admitted and heard on merits. He has also explained the nature of the dispute, the grounds on which the order of the First Appellate Authority is assailed and the reasons stated by the Department for considering the said order erroneous.

We have heard the learned Authorised Representative and have carefully examined the appeal memorandum, the impugned order and the material placed on record. At the outset, however, we make it clear that the stage of admission cannot be treated as a mere procedural formality. The Tribunal is required to first satisfy itself that the appeal is legally maintainable and is entitled to enter the stage of adjudication on merits. A distinction must necessarily be maintained between filing of an appeal and maintainability of an appeal . The mere fact that an appeal has been presented before the Tribunal does not, by itself, create an entitlement to have the appeal heard on merits. The right of appeal is a creature of statute. It can therefore be exercised only within the framework and subject to the conditions prescribed by law. It has been held by the Hon'ble Apex court in Ganga Bai vs. Vijay Kumar, (1974) 2 SCC 393 that there is a basic distinction between the right of suit and the right of appeal. There is an inherent right in every person to bring suit of a civil nature and unless the suit is barred by statute one may, at one's peril, bring a suit of one's choice. It is no answer to a suit howsoever frivolous the claim, that the law confers no such right to sue. A suit for its maintainability requires no authority of law and it is enough that no statute bars the suit but the position in regard to appeals is quite the opposite. The right of appeal inheres in no one and therefore an appeal for its maintainability must have the clear authority of law. In Anant Mills Company Limited vs. State of Gujarat, (1975) 2 SCC 175, it has been held by the Hon'ble Apex Court that though the right of appeal is a creature of a statute, there is no reason why the legislature while granting the right cannot impose conditions for the exercise of such right so long as the conditions are not so onerous as to amount to unreasonable restrictions rendering the right almost illusory. Hon'ble Supreme Court has likewise recognised that the legislature may prescribe conditions regulating the exercise of the statutory right of appeal.

2. The Threshold Question

The present appeal is a departmental appeal. The question which therefore necessarily arises before us is not merely whether the Department has a grievance against the order under challenge. The more fundamental question is: Whether, notwithstanding the existence of a statutory right of appeal, the Department has satisfied the statutory and administrative conditions governing its invocation in the present case. This question assumes significance because the competent authority has prescribed a monetary threshold governing departmental appeals before the Tribunal. Section 120 of the UPGST Act, 2017, is captioned "Appeal not to be filed in certain cases." The provision empowers the Commissioner, on the recommendations of the GST Council, to issue orders, instructions or directions fixing monetary limits for regulating the filing of appeals or applications by State Tax officers. Pursuant thereto, the Commissioner, State Tax, Uttar Pradesh issued Circular No. 2425008 dated 05.07.2024, prescribing, inter alia, a monetary limit of ?20,00,000 for departmental appeals before GSTAT, subject to specified exclusions and exceptions. The circular expressly seeks to reduce Government litigation and promote prudent utilisation of judicial resources. Thus, the monetary-threshold policy cannot be regarded as an obsolete or abandoned administrative arrangement. State litigation-management framework continued through its Circular No. 252/2026-27/State Tax dated 22.05.2026, dealing with monetary limits, review mechanism and departmental litigation before GSTAT and higher constitutional courts.

3. Issues for Determination

In view of the above, the following issues arise for determination at this stage:-^

> Whether the prescribed monetary limit of ?20,00,000 is applicable to the present departmental appeal?

> Whether, on application of the methodology prescribed by the competent authority, the disputed amount in the present appeal falls below the prescribed threshold?

> If the disputed amount is below ?20,00,000, whether the Revenue has specifically pleaded and established that the present case falls within any of the recognised exceptions to the monetary limit?~

(iv) Whether a mere assertion that the appeal has been filed with the approval or authorisation of the Commissioner is sufficient to bring the case within an exception?

(V) Whether institution and prosecution of the present appeal, in the absence of an established exception, is contrary to the binding litigation policy governing departmental appeals?

(vi) What is the consequence of such non-compliance at the stage of admission?

(vii) Whether the present appeal, therefore, deserves to be admitted and adjudicated on merits?

4. legal basis for determination of Monetary Limit: ---

The departmental circular itself prescribes the methodology for determining whether an appeal falls within the monetary threshold as per details mentioned below:---^

3. While determining whether a case falls within the above monetary limits or not, the following principles are to be considered:

4. Where the dispute pertains to demand of tax (with or without penalty and/or interest, the aggregate of the amount of tax in dispute (including CGST, SGST/UTGST, IGST and Compensation Cess) only shall be considered while applying the monetary limit for filing appeal.

5. Where the dispute pertains to demand of interest only, the amount of interest shall be considered for applying the monetary limit for filing appeal.~

iii. Where the dispute pertains to imposition of penalty only, the amount of penalty shall be considered for applying the monetary limit for filing appeal.

1. Where the dispute pertains to imposition of late fee only, the amount of late fee shall be considered for applying the monetary limit for filing appeal.

2. Where the dispute pertains to demand of interest, penalty and/or late fee (without involving any disputed tax amount), the aggregate of amount of interest, penalty and late fee shall be considered for applying the monetary limit for filing appeal.

3. Where the dispute pertains to erroneous refund, the amount of refund in dispute (including CGST, SGST/UTGST, IGST and Compensation Cess) shall be

vii. Monetary limit shall be applied on the disputed amount of tax/interest/penalty/late fee, as the case may be, in respect of which appeal or application is contemplated to be filed in a case.

viii. In a composite order which disposes more than one appeal/demand notice, the monetary limits shall be applicable on the total amount of tax/interest/penalty/late fee, as the case may be, and not on the amount involved in individual appeal or demand notice. Hence if , after applying the prescribed methodology, the disputed amount is below ?20 lakh, the appeal falls within the monetary restriction unless a recognised exception is established.

In the present case, upon examination of the case record we find that there is demand of ?1,98,806/. Thus, the amount in dispute is admittedly/clearly below ?20,00,000. The first threshold condition is, therefore, attracted.

5. Exceptions to the Monetary Limit. :---

The fact that an appeal falls below the prescribed monetary limit does not conclude the matter. The circular itself recognises specified exceptions. At this stage clause 4 which deals with EXCLUSIONS are important for deliberation and examination. As per clause 4 Monetary limits specified for filing appeal or application by the department before GSTAT or High Court and for filing Special Leave Petition or appeal before the Supreme Court shall be applicable in all cases, except in the following circumstances where the decision to file appeal shall be taken on merits irrespective of the said monetary limits:

I Where any provision of the CGST Act or UPGST Act or IGST Act or GS (Compensation to States) Act has been held to be ultra vires to the Constitution of India; or.

1. Where any Rules or regulations made under CGST Act or UPGST Act or IGST Act or GST (Compensation to States) Act have been held to be ultra vires the parent Act; or

2. Where any order, notification, instruction, or circular issued by the Government or the Board has been held to be ultra vires of the CGST Act or UPGST Act or IGST Act or GST (Compensation to States) Act or the Rules made there under; or

3. Where the matter is related to -^

1. Valuation of goods or services; or

2. Classification of goods or services; or

3. Refunds; or

4. Place of Supply; or

5. Any other issue,~

which is recurring in nature and/or involves interpretation of the provisions of the Act /the Rules/ notification/circular/order/instruction etc; or,-^

1. Where structures/adverse comments have been passed and/or cost has been imposed against the Government/Department or their officers; or

2. Any other case or class of cases, where in the opinion of the Commissioner, it is necessary to contest in the interest of justice or revenue.~

6. Burden to Establish the Exception;-------- The existence of an exception, however, cannot be presumed merely because the Department desires to pursue the appeal. An exception is an exception precisely because it takes a case outside the general rule. Consequently, the party seeking to invoke the exception must establish its applicability. Hence once it is demonstrated that the disputed amount is below ?20 lakh, the burden lies upon the Revenue, which seeks to maintain the appeal notwithstanding the threshold, to disclose:-^

1. which exception is being invoked;

2. what facts bring the case within that exception;

3. what statutory or administrative provision supports the invocation; and

4. where the residual discretion of the Commissioner is relied upon, the order or recorded opinion demonstrating that the statutory discretion was actually exercised in the particular case.The Department cannot be permitted to leave these matters to inference. A monetary-limit regime would become wholly ineffective if every appeal below the prescribed threshold could be instituted merely by making a bald statement that it has been filed "with the permission of the Commissioner.~

7. Permission is Not the Same as Statutory Compliance. This distinction, in our considered view, is fundamental. Administrative authorisation to institute litigation and satisfaction of the statutory conditions governing maintainability are two different matters. An officer may require administrative permission to institute an appeal but such permission, by itself, does not demonstrate that the particular appeal falls within a recognised exception to the monetary restriction. In other words: An authorisation to file an appeal is not, by itself, an authorisation to disregard the monetary limit. If the Department relies upon the residual exception relating to the Commissioner's opinion that a particular matter requires contest in the interest of justice or revenue, the record must disclose that the Commissioner actually formed such opinion in relation to this particular case, and the basis for formation of that opinion must be discernible. A generic approval cannot be elevated into a statutory exception. To hold otherwise would render the monetary limit virtually meaningless. Every appeal could be brought before the Tribunal merely by obtaining a general administrative approval, thereby defeating the very purpose for which Section 120 and the litigation policy have been put in place. At this stage it would be just and fair to discuss section 112 (3) of UP GST Act. As per s. 112 (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. Bare perusal of this section makes it clear that specific course of action is required to be taken up by the Commissioner prior to giving permission u/ s 112(3) so that Tribunal must be able to examine how the opinion was formed and upon what basis, and a bare assertion of Commissioner's permission is insufficient.

8. Litigation policy of Uttar Pradesh .

At this stage we must consider recent circular , Circular No. 252/2026-27/State Tax dated 22.05.2026, dealing with monetary limits, review mechanism and functioning of Zonal Law Committees for departmental appeals before GSTAT. The 2026 framework establishes a structured review mechanism through Zonal Law Committees and continues the policy of restricting departmental litigation by monetary thresholds, while preserving specified exceptions. Thus, the monetary-limit principle is not an obsolete 2024 arrangement. It forms part of the Department's continuing litigation-management policy. The principle is one of institutional discipline. A litigation policy framed by the competent authority for regulating departmental appeals cannot be treated as binding when it favours the Department and merely advisory when it operates as a restraint upon the Department. The State, as a litigant, is expected to conduct litigation responsibly and consistently with its declared policy. Hon'ble Supreme Court in Director of Income Tax v. S.R.M.B. Dairy Farming (P) Ltd. also recognised the problem of governmental over-litigation and the need for responsible litigation policy to prevent docket explosion and unnecessary multi-tier litigation.

9. Binding Character of Departmental circular .

The Department cannot simultaneously invoke a statutory litigation-control mechanism when convenient and disregard the same mechanism when an adverse order is passed. It has been held by the Hon'ble Apex court in M/S. Ranadey Micronutrients vs Collector Of Central Excise (1996) 10 SCC 387 that it does not lie in the mouth of the Revenue to repudiate a circular issued by the Board on the basis that it is inconsistent with a statutory provision. Consistency and discipline are of far greater importance than the winning or losing of court proceedings. The jurisprudence developed under analogous revenue statutes is also instructive. Courts have consistently recognised that instructions issued by the competent revenue authority regarding departmental appeals bind the departmental officers.

10 . The Right of Appeal Does Not Override the Conditions Governing its exercise.

The Revenue may contend that Section 112 confers a statutory right of appeal and that an appeal filed pursuant to the direction of the Commissioner cannot be declined. We are unable to accept that proposition in such absolute terms. Section 112 confers the right to approach the Appellate Tribunal in the circumstances prescribed by the statute. The exercise of that right remains subject to the statutory and regulatory framework governing departmental litigation. The right of appeal is not an unqualified licence to litigate. The Supreme Court has repeatedly recognised that the right of appeal is a creature of statute and may be subjected to conditions regulating its exercise. We can referrer and follow Ganga Bai and Anant Mills Company Ltd. v. State of Gujarat, (1975) 2 SCC 175, in this context. Accordingly, the existence of appellate jurisdiction does not oblige the Tribunal to admit every departmental appeal irrespective of compliance with the conditions governing its institution.

10. whether any Exception Established in the Present Case

We have carefully examined the case record.. we find that this appeal has been filed U/S 112 (3) of the UP GSTA Act but The Revenue has not specifically pleaded or established that the present appeal falls within any of the enumerated exceptions. There is no material before us demonstrating that:-^

> any provision of the CGST/UPGST/IGST Act has been held ultra vires;

> any Rule has been held ultra vires the parent Act;

> any notification, circular or instruction has been held ultra vires;

> the present case involves a recurring question of law requiring authoritative determination;

> any adverse comment or cost has been imposed against the Department; or

> the Commissioner has, in the particular case, recorded the requisite opinion that notwithstanding the monetary limit, the matter must necessarily be contested in the interest of justice or revenue. Accordingly we find that Revenue has failed to establish that this matter falls under an exception.~

11 . Impact of monetary limit . The right of appeal is a statutory right and has to be exercised in the manner prescribed by the statute.. It has repeatedly held that a right of appeal is not an inherent or natural right. In State of Maharashtra v. Greatship (India) Ltd. Hon'ble Supreme Court reiterated the principle that an appeal is a creature of statute and that its exercise must remain within the statutory framework. The Department has such right of appeal as the statute confers, subject to the conditions and regulatory provisions contained in the statutory scheme. A recent decision in Commissioner of Commercial Tax v. Vikram Cement, decided 5 February 2026, considered the ?20 lakh GST monetary limit and it has been held by the Hon'ble Apex court that the circular applied even to pending appeals. The Court treated the monetary-limit instruction as a bar to pursuing the departmental appeal and dismissed the appeals where the tax component was below the prescribed limit, while leaving the legal question open for an appropriate case. It has been held by the Hon'ble Apex court in DIRECTOR OF INCOME TAX, versus S.R.M.B. DAIRY FARMING (P) LTD that the propensity of Government Departments and public authorities to keep litigating through different tiers of judicial scrutiny is one of the reasons for docket explosion. Mindful of the phenomenon of the docket explosion and the rising litigation in the country, the Union of India in order to ensure the conduct of responsible litigation framed what is today known as the National Litigation Policy, to bring down the pendency of cases and get meaningful issues decided from the judicial forums rather than multiple tiers of scrutiny just for the sake of it. The Government, being a litigant in well over 50 per cent of the cases, has to take a lead . It has been held by the Hon'ble Apex Court in Commissioner of Customs, New Delhi vrs Balaji Overseas etc. that Appeal would have to be disposed of having regard to threshold limit and as the amount in dispute in the instant cases is only Rs. 1,28,73,481/ in the circumstances, the appeals are dismissed owing to low tax. Above mentioned decisions of the Hon'ble Apex court also recognised tax law philosophy that Tax law is a branch of public law. The State possesses extensive coercive powers because taxation is essential to the functioning of government but the corresponding principle is legality. Revenue must collect what the law permits it to collect, and must litigate in the manner which the law permits. The object of appellate adjudication is not to provide an unrestricted forum for governmental disagreement with every adverse order. There must be a rational relationship between: revenue involved ? legal significance ? public importance ? cost of litigation ? need for authoritative determination. That is precisely why monetary limits have been introduced. A ?20 lakh threshold does not signify that the amount below ?20 lakh is legally insignificant. It represents an administrative and statutory determination that, ordinarily, the public interest is better served by avoiding departmental litigation of such quantum, subject to specified exceptions. The rule therefore serves both fiscal prudence and access to justice.

12. Admission Cannot Be Used to Bypass the Litigation Policy

The Revenue has invited us to enter into the merits of the controversy. We decline to do so. The Tribunal cannot first adjudicate the merits and thereafter determine whether the appeal was entitled to enter the adjudicatory process. The correct sequence is the reverse: Maintainability first; merits thereafter. Where the statutory and administrative framework places a threshold condition upon departmental litigation, the Tribunal must examine that condition at the threshold. The merits of an appeal cannot create maintainability where the conditions precedent for its admission have not been fulfilled. Nor can the existence of an arguable question on merits, by itself, neutralise a binding monetary-limit policy.

13. Public Interest and Responsible Litigation

The monetary threshold should not be misunderstood as a declaration that a demand below ?20 lakh is legally insignificant. It is a policy determination concerning allocation of public resources, litigation discipline and prioritisation of revenue disputes. Government litigation consumes:-^

> judicial time;

> departmental resources;

> public money;

> time of officers;

> time of taxpayers;

> and institutional capacity of the Tribunal.

> The object of a monetary-limit policy is therefore not merely to reduce the number of cases. It is to ensure that the State litigates selectively where litigation is justified by the quantum involved, legal significance, recurring nature, public importance or recognised exception.~

14. Finding

Upon consideration of the entire material, we record the following findings:

Finding No. 1 The present appeal is a departmental appeal and is consequently governed by the monetary-limit framework prescribed for departmental litigation.

Finding No. 2 The amount relevant for applying the prescribed monetary threshold is ? 1,98,806/ which is below ?20,00,000.

Finding No. 3. The Revenue has failed to establish that the present appeal falls within any recognised exception to the prescribed monetary limit.

Finding No. 4. No material has been produced demonstrating a specific, reasoned and legally cognisable exercise of the Commissioner's residual power in the present case so as to bring the appeal within the exception. A mere assertion that the appeal has been filed with the approval/authorisation of the Commissioner cannot, in law, substitute compliance with the statutory and binding litigation-control mechanism.

Finding No. 5 The appeal therefore cannot be admitted for adjudication on merits.

ORDER

In view of the foregoing discussion and findings, we hold that the present departmental appeal involves disputed revenue of ?1,98,806/ which is below the prescribed monetary limit of ?20,00,000, and the Revenue failed to establish the applicability of any recognised exception to the said limit. The appeal, therefore, does not satisfy the conditions governing its admission and maintainability before this Tribunal. Accordingly, the appeal is: DISMISSED AT THE THRESHOLD ON THE GROUND OF THE PRESCRIBED MONETARY LIMIT AND NON ESTABLISHMENT OF ANY APPLICABLE EXCEPTION. We make it expressly clear that we have not examined, considered or adjudicated upon the merits of the tax dispute raised in the appeal. No finding recorded in this order shall be construed as an affirmation or rejection of the correctness of the impugned order on merit. The dismissal is confined to the maintainability of the departmental appeal in view of the applicable monetary-limit regime. The appeal stands disposed of accordingly.

Registrar to supply copy of this order to the Appellant .

Pronounced in the open Tribunal proceeding.

(Sanjay Kumar Chandhariyavi)

(Sungita Sharma)

Dated: 17.09.2026