सत्यमेव जयते

కస్టమ్స్ మరియు సెంట్రల్ టాక్స్ కమీషనర్ కార్యాలయం (అప్పీల్స్-II)
7వ అంతస్తు, GST భవన్: LB స్టేడియం రోడ్, బషీర్‌బాగ్, హైదరాబాద్, పిన్-500004
केन्द्रीय सीमा शुल्क एवं केन्द्रीय कर आयुक्त का कार्यालय(अपील्स-II)
सातवा तल, जी.एस.टी.भवन, एल.बी.स्टेडियम रोड, बशीरबाग, हैदराबाद,पिन – ५०००४
OFFICE OF THE COMMISSIONER OF CUSTOMS & CENTRAL TAX
APPEALS-II COMMISSIONERATE, HYDERABAD
7th Floor, GST Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad, Telangana -500004.
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Appeal No. 359/2024(SC)DGST
OIO No. 02/2024-25 (GST-Adjn) dated 01.07.2024
DIN- 20250756DN0000999D09

अपीलआदेशसं: ORDER-IN-APPEAL No. HYD-GST-SC-APP2- 241-2025-26
तारीख Dated: 31.07.2025

जारीकर्ता : **श्री श्रीचरण कूटिकुप्पला**, आईआर एस, संयुक्त आयुक्त, केन्द्रीय कर व जी.एस.टी. (अपील्स-II)

Passed by: **Shri Sricharan Kootikuppala,** IRS, Joint Commissioner of Central Tax & GST (Appeals-II)

उद्देशिका / PREAMBLE

1	जिस व्यक्ति को यह प्रति जारी की जाती है, उस व्यक्ति के निजी उपयोग के लिए निशुल्क दी जाती है ।
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	इस आदेश से व्यथित कोई भी व्यक्ति,वस्तु एवं सेवा कर नियम, 2017 के नियम 110 के साथ पठित केंद्रीय वस्तु एवं सेवा कर अधिनियम 2017 की धारा 112 (1) के तहत इलेक्ट्रॉनिक या अन्य माध्यम से,केन्द्रीय वस्तु एवं सेवा कर अधिनियम 2017 की धारा 109 के तहत गठित उपयुक्त अपीलीय न्यायाधिकरण के राज्य / क्षेत्र के क्षेत्राधिकार के खंड पीठ में उन मामलों में, जिनमें 'अपूर्ति की जगह',विवाद-ग्रस्त विषयों में से एक न हो, अपील दायर कर सकता है । जहां 'आपूर्ति की जगह' विवादित मामलों में से एक है, अपील, उपरोक्त धारा 109 के तहत गठित राष्ट्रीय / क्षेत्रीय खंडपीठ के समक्ष दायर की जाए ।जिस आदेश के विरुद्ध अपील दायर की जा रही है उसे अपीलकर्ता को संप्रेषित करने की तिथि से 3 (तीन) माह के अंदर अपील जीएसटी एपीएल-05 फॉर्म में दायर की जानी चाहिए । आदेश की एक प्रमाणित प्रति, यदि लागू हो तो नियम 110 (5) के अंतर्गत विहित शुल्क तथा अन्य संगत दस्तावेज़ संलग्न करते हुए, अपील पर नियम 26 के तहत विनिर्दिष्ट तरीके से हस्ताक्षर किए जाएं ।
	Any person aggrieved by this order, may under Section 112(1) of the Central Goods and Services Tax (CGST) Act 2017, read with Rule 110 of the CGST Rules, 2017; file an appeal electronically or otherwise, to the appropriate State / Area Bench of the Appellate Tribunal constituted under Sec 109 of the CGST Act 2017 in cases not involving 'place of supply' as one of the disputed issues. Where the 'place of supply' is one of the disputed issues, the appeal shall be filed with the National / Regional bench constituted under the said Sec 109. The appeal should be filed in Form GST APL-05 within 3(three) months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal. The appeal shall be signed in the manner specified under Rule 26, enclosing a certified copy of the order, the prescribed fee under Rule 110(5) if applicable, and any other relevant documents.
3.	वस्तु एवं सेवा कर नियम, 2017 के नियम 111 के साथ पठित केंद्रीय वस्तु एवं सेवा कर अधिनियम 2017 की धारा 112 (3) के तहत आयुक्त द्वारा प्राधिकृत अधिकारी इलेक्ट्रॉनिक या अन्य माध्यम से, केन्द्रीय वस्तु एवं सेवा कर अधिनियम 2017 की धारा 109 के तहत गठित अपीलीय न्यायाधिकरण के राज्य / क्षेत्र के क्षेत्राधिकार के खंड पीठ में उन मामलों में, जिनमें 'आपूर्ति की जगह' विवाद-ग्रस्त विषयों में से एक न हो, अपील दायर कर सकता है । जहां 'आपूर्ति की जगह' विवादित मामलों में से एक है, अपील, उपरोक्त धारा 109 के तहत गठित राष्ट्रीय / क्षेत्रीय खंडपीठ के समक्ष दायर की जाए।जिस आदेश के विरुद्ध अपील दायर की जा रही है उसे जारी करने की तिथि से 6 (छः) माह के अंदर अपील जीएसटी एपीएल -07 फॉर्म में दायर की जानी चाहिए। अपील के साथ आदेश की प्रमाणित प्रति एवं अन्य संगत दस्तावेज़ संलग्न हो । विभागीय अपील के प्रत्याक्षेप,वस्तु एवं सेवा कर अधिनियम 2017 की धारा 112 (5)के साथ पठितनियम 110 (2) के अनुसार जीएसटी एपीएल -06 फॉर्म में इसकेसम्प्रेषण के 45 दिनों के अंदर दायर किए जाएं और इस पर नियम 26 में विनिर्दिष्ट तरीके से हस्ताक्षर किए जाएं।
	The officer authorized by the Commissioner under Sec 112(3) of the CGST Act 2017, read with Rule 111 of the CGST Rules, 2017; file an appeal electronically or otherwise, to the State / Area Bench of the Appellate Tribunal constituted under Sec 109 of the CGST Act 2017 in cases not involving 'place of supply' as one of the disputed issues. Where the 'place of supply' is one of the disputed issues, the appeal shall be filed with the National / Regional bench constituted under the said Sec 109. The appeal should be filed in Form GST APL-07 within 6 (six) months of the date of issuance of the disputed order. The appeal shall enclose a certified copy of the order, and any other relevant documents. The cross objections to the departmental appeal shall be filed within 45 days of communicating it, in Form GST APL-06 in terms of

	Rule 110(2) read with Sec 112(5) of the CGST Act 2017 and signed in the manner specified in Rule 26.
	रेवेन्यू बार एसोसिएशन के मामले में मद्रास उच्च न्यायालय के आदेश के मद्देनजर अपीलीय न्यायाधिकरण का गठन नहीं किया गया है। v. भारत संघ और इसलिए अपील उस तारीख से तीन महीने के भीतर दायर नहीं की जा सकती जिस दिन आदेश के खिलाफ अपील की मांग की गई है। अधिनियम के उपरोक्त प्रावधान को प्रभावी करने में उत्पन्न होने वाली कठिनाई को दूर करने के लिए, सरकार ने परिषद की सिफारिशों पर, केंद्रीय माल और सेवा कर (कठिनाइयों का नौवां निवारण) आदेश, 2019 दिनांक 03.12.2019 जारी किया है। उक्त आदेश के माध्यम से यह प्रावधान किया गया है कि ट्रिब्यूनल में अपील आदेश के संचार की तारीख या जिस तारीख को राष्ट्रपति या राज्य अध्यक्ष, के रूप में तीन महीने (सरकार द्वारा अपील के मामले में छह महीने) के भीतर की जा सकती है। अपीलीय न्यायाधिकरण के कार्यालय में प्रवेश करने की स्थिति में, जो भी बाद में हो।
	(ii) The appellate tribunal has not been constituted in view of the order by Madras High Court in case of Revenue Bar Assn. v. Union of India and therefore the appeal cannot be filed within three months from the date on which the order sought to be appealed against is communicated. In order to remove difficulty arising in giving effect to the above provision of the Act, the Government, on the recommendations of the Council, has issued the Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019. It has been provided through the said Order that the appeal to tribunal can be made within three months (six months in case of appeals by the Government) from the date of communication of order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, whichever is later.
4.	धारा 112 (8) के अनुसार, धारा 112 (1) केतहत तब तक कोईअपीलदायरनहींकीजाएगीजबतकअपीलकर्तानें (ए) आक्षेपित आदेश सेउत्पन्नकर, ब्याज, फाइन, शुल्क व जुर्मानाके उस अंश का, जो उसके द्वारा स्वीकार किया गया है तथा (बी) उक्त आदेश, जिसके संबंध में अपील दायर की गई है, से उत्पन्न धारा 107(6)के अंतर्गत प्रदत्त राशि के अतिरिक्त, विवादित कर की शेष राशि के 20% का पूर्ण भुगतान नहीं किया हो ।
	In terms of Sec 112(8), no appeal shall be filed under Sec 112(1) unless the appellant has paid (a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and (b) a sum equal to 20% of the remaining amount of tax in dispute, in addition to the amount paid under Sec 107(6), arising from the said order, in relation to which the appeal has been filed.
5.(i)	धारा 112 (1) के तहत आवेदन पत्र के साथ रुपए 5 मूल्य (केवल पांच रुपये) का गैर न्यायिक न्यायालय शुल्क टिकट हो। नियम 110 (5) के साथ पठित धारा 112 (10) के अनुसार अपीलीय प्राधिकरण के समक्ष अपील / अपील प्रत्यावर्तन हेतु प्रस्तुत आवेदन के साथ अधिकतम रु. पच्चीस हजार रुपये के अध्यधीन कर / इनपुट टैक्स क्रेडिट के प्रति एक लाख रुपए के लिए रु. एक हजार का शुल्क या कर या इनपुट टैक्स क्रेडिट में अंतर या जिस आदेश के विरुद्ध अपील की जा रही है उसमें निर्धारित फाइन, शुल्क या जुर्माना लगाया जाए ।
	The application under Sec 112(1) shall bear a non-judicial court fee stamp of value Rs.5 (Rupees Five only). In terms of Sec 112(10) read with Rule 110(5), an application for appeal / restoration of appeal before the Appellate Tribunal shall be accompanied by a fee of One thousand rupees for every one lakh rupees of tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in the order appealed against, subject to a maximum of twenty-five thousand rupees
5.(ii)	उपरोक्त धारा 112 की उप धारा (5) में संदर्भित कुल प्रत्याक्षेपों के ज्ञापन के संबंध में कोई शुल्क देय नहीं होगा।
	No fee is payable in respect of the Memorandum of Cross Objections referred to in sub-sec (5) of Sec 112 ibid.
5.(iii)	धारा 112(3) के अंतर्गत,आयुक्त द्वारा अधिकृत अधिकारीद्वारा दायर किए जाने वाले आवेदन के मामले में कोई शुल्क देय नहीं होगा।
	No fee is payable in case of an application filed by the officer authorized by the Commissioner to file an appeal under Sec 112(3).
6.	केन्द्रीय वस्तु एवं सेवा कर अधिनियम, 2017 में निहित उक्त एवं अन्य संबंधित मामलों को नियंत्रित करने वाले प्रावधानों और इनके तहत बनाए गए नियम / जारी की गई अधिसूचनाओं की ओर ध्यान आकर्षित किया जाता है ।
	Attention is invited to the provisions governing these and other related matters, contained in the Central Goods & Services Act, 2017 and the rules made / notifications issued thereunder, for compliance.

These proceedings arise out of the following appeal filed under Central Goods & Service Tax (CGST)/ State Goods & Service Tax (SGST) Act and in terms and ground that the Order-in-Original (OIO) passed by the Original Adjudicating Authority (OAA) is not legal and proper as detailed below:

Appeal No.	**359/2024(SC)DGST**
Appellant	The Superintendent of Central Tax, Ramgopalpet-III CGST range, Secunderabad CGST Division, Secunderabad GST Commissionerate, Hyderabad.

Respondent	M/s VISTA HOMES, 2ND FLOOR, 5-4-187/3 AND 4, SOHAM MANSION, MG ROAD, SECUNDERABAD, Rangareddy, Telangana, 500003 (GSTIN: **36AAGFV2068P1ZJ)**
OIO No & Date	02/2024-25 (GST-Adjn) dated 01.07.2024 received on 02.07.2024
Period Involved	April 2019 to March 2020
Original Adjudicating Authority (OAA)	The Superintendent of Central Tax, Ramgopalpet-III CGST range, Secunderabad CGST Division, Secunderabad GST Commissionerate, Hyderabad.
Review Order No./ Authority	Review Order No.378/2024-25-GST(OIO) dt. 05.12.2024 of the Commissioner of Central Tax and Central Excise, Secunderabad GST Commissionerate.
Grounds of Appeal	OAA has not imposed correct quantum of penalty under Section 73 of CGST/ TGST Act and IGST in terms of 4th provision to Section 20 of IGST Act, 2017
OIA No. and Date	HYD-GST-SC-AP2-241-2025-26-GST Dated: 31.07.2025

BRIEF FACTS OF THE CASE:

2. The above-mentioned appeal was filed against the Order-in-Original (OIO), issued by following the due process by adhering to principals of natural justice in each case by the Original Adjudicating Authority (OAA), as per the decision taken consequent to review under Section 107(2) of the CGST Act by the Reviewing Authority i.e., the Commissioner of Central Tax and Central Excise, Secunderabad GST Commissionerate, Hyderabad.

GROUNDS OF APPEAL:

3. The appeal mentioned in para 1 was filed by the Appellant before the undersigned on the grounds that the OAA has not imposed the correct quantum of penalty as prescribed under Section 73 of the CGST/SGST Act, 2017 and 122(2)(a) ibid read with Section 20 of the IGST Act, 2017. Accordingly, the appellant has made prayer to impose appropriate penalty in the above appeal.

DISCUSSION AND FINDINGS:

4. I have carefully examined the submissions made by the Appellant in the appeal. The Appeal was filed within the time limit stipulated under section 107(2) of the CGST Act, 2017.

5. The only matter to be decided in the instant case is whether the quantum of IGST penalty imposed in terms of Section 73 of the CGST/SGST Act, 2017

and 122(2)(a) ibid read with Section 20 of the IGST Act, 2017 is legal & proper.

6. I have gone through the submissions made by the appellant along with the relevant provisions of the Act.

Section 73(1) of CGST Act, 2017 reads as:
Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

Section 73 (9) of the CGST Act, 2017 reads as:
The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

Section 122(2)(a) of the CGST Act, 2017 reads as:
122. Penalty for certain offences. *— (2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilised, - —*
(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent of the tax due from such person, whichever is higher;
... ...
... ...

Section 126. General disciplines related to penalty of the CGST Act, 2017 reads as
(1) <u>No officer under this Act shall impose any penalty for minor breaches of tax regulations</u> or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence.

Explanation- For the purpose of this sub-section,-

(a) <u>a breach shall be considered a "minor breach" if the amount of tax involved is less than five thousand rupees</u>;

(b) an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on the face of record.

(2) <u>The penalty imposed under this Act shall depend on the facts and circumstances of each case and shall be commensurate with the degree and severity of the breach.</u>

... ...

The similar provision is available in TSGST Act,2017.

The **4th proviso of section 20 of the Integrated Goods and Services Tax Act, 2017** says that "in cases where the penalty is leviable under the Central Goods and Services Tax Act and the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, the penalty leviable under this Act shall be the sum total of the said penalties."

From the plain reading of the relevant sections of CGST / TSGST / IGST Act there is no ambiguity that stature provides for the **penalty equivalent to ten per cent of the tax due (CGST/SGST) or ten thousand rupees, whichever is higher for each contravention and the penalty under IGST Act, 2017 would be the sum total of CGST and SGST penalties.** Further, as per Section 126 of CGST Act, 2017 no penalty should be imposed for minor breach (where tax amount involved is less than Rs. 5000/) and penalty imposed under the Act should be commensurate with the degree and severity of the breach.

In terms of 4th proviso to Section 20 of the IGST Act, the amount of penalty to be quantified/levied is the sum total of the amount of penalty "leviable" under the CGST Act plus the SGST Act. As such, there is no independent provision of its own under the IGST Act to quantify the amount of penalty, it arrives at such quantification through the provisions of the CGST and the SGST Acts. In this scenario, what emerges is that the quantum of penalty under the IGST Act is entirely dependent upon the penalty "leviable" under the CGST and the SGST Acts for the said transactions. In the instant case, penalties are imposed under Section 73 of the CGST Act read with Section 122(2)(a) of the CGST Act read with similar provisions under TGST Act and IGST Act, 2017.

7. Here the Appellant has submitted that the Adjudicating authority has imposed less penalty on the demand confirmed in the impugned order as detailed under:

7.1 OAA has confirmed the demand of tax of Rs. 2,35,488/- (IGST: Rs. 17,008/-; CGST: Rs. 1,09,240/- & SGST: Rs. 1,09,240/-) under section 73 of CGST/ TGST Act, 2017 read with section 20 of IGST Act, 2017 at para 8(i) and imposed penalty of Rs. 41,848/- (IGST: Rs.

20,000/-; CGST: Rs. 10,924/- & SGST: Rs. 10,924/-) under section 73 read with section 122(2)(a) of CGST/ TGST Act, 2017 read with section 20 of IGST Act, 2017 at para 8(iii) is not legal and proper to the extent of less imposition of penalty under IGST in terms of 4th provision of Section 20 of IGST Act, 2017.

7.2 OAA has confirmed the demand of tax of Rs. 7,12,228/- (IGST: Rs. 1,948/-; CGST: Rs. 3,55,140/- & SGST: Rs. 3,55,140/-) under section 73 of CGST/ TGST Act, 2017 read with section 20 of IGST Act, 2017 at para 8(viii) and imposed penalty of Rs. 91,028/- (IGST: Rs. 20,000/-; CGST: Rs. 35,514/- & SGST: Rs. 35,514/-) under section 73 read with section 122(2)(a) of CGST/ TGST Act, 2017 read with section 20 of IGST Act, 2017 at para 8(x) is not legal and proper to the extent of less imposition of penalty under IGST in terms of 4th provision of Section 20 of IGST Act, 2017.

8. In accordance with the relevant provision outlined in paragraph 6, the penalty to be imposed is discussed below

8.1 Demand confirmed in para 8(i) is Rs. 2,35,488/- (IGST: Rs. 17,008/-; CGST: Rs. 1,09,240/- & SGST: Rs. 1,09,240/-) under section 73 of CGST/ TGST Act, 2017 read with section 20 of IGST Act, 2017.

Here, the penalty to be imposed under IGST is arrived as follows - To illustrate, if the interstate supplies were to become intra-state supplies, there would be a "levy" of CGST & SGST instead of IGST. Therefore, in place of the tax amount of IGST Rs.17,008/-, there would be a levy of Rs.8,504/- CGST & Rs.8,504/- SGST for the said transactions. Now taking the Section 122(2)(a) provision of CGST Act read with Section 73 ibid into consideration, **penalty shall be ten percent of the tax due (CGST/SGST) or ten thousand rupees, whichever is higher**, let us quantify the IGST penalty leviable. So, the penalty to be imposed is **IGST Rs.20,000/-** [CGST – Rs.850/- (or 10,000/-)] whichever is higher + [SGST – Rs.850/- (or Rs.10,000/-) whichever is higher. The OAA has imposed the IGST penalty of Rs.20,000/- at para 8(iii) of the impugned order in terms of Section 20 of the IGST Act and the quantum of IGST penalty in the instant case has been rightly arrived. Hence, the decision of the OAA is upheld and the penalty amount needs no modification.

8.2 Demand confirmed in para 8(viii) is Rs.7,12,228/- (IGST: Rs. 1,948/-; CGST: Rs. 3,55,140/- & SGST: Rs. 3,55,140/-) under section 73 of CGST/ TGST Act, 2017 read with section 20 of IGST Act, 2017 and penalty of Rs. 91,028/- (IGST: Rs. 20,000/-; CGST: Rs. 35,514/- & SGST: Rs. 35,514/-) was imposed under section 73 read with section 122(2)(a) of CGST/ TGST Act, 2017 read with section 20 of IGST Act, 2017

Here, I would refer to Section 126 of CGST Act, 2017 as the amount demanded under IGST is only Rs. 1948 that is much below Rs. 5,000/- and the same is considered a minor breach and hence **no penalty** should be imposed under IGST head.

Hence the penalty imposed at para 8(x) of the impugned order stands modified to Rs. 71,028/- (IGST – Rs.0, CGST Rs. 35,514/- & SGST Rs. 35,514/-)

9. In the light of the above discussions and in consideration of grounds of appeal, I pass the following order:

ORDER

The appeal is rejected.

(श्रीचरण कूटिकुप्पला)/ (SRICHARAN KOOOTIKUPPALA)
संयुक्त आयुक्त (अपील- II) /JOINT COMMISSIONER (APPEALS-II)

श्री चरण/SRI CHARAN
केंद्रीय कर/Cental Tax
अपील्य-II आयुक्तालय,
Appeals-II Commissionerate
हैदराबाद/Hyderabad.

To

The Appellant/ OAA: The Superintendent of Central Tax, Ramgopalpet-III CGST range, Secunderabad CGST Division, Secunderabad GST Commissionerate, Hyderabad.

The Respondent M/s VISTA HOMES, 2ND FLOOR, 5-4-187/3 AND 4, SOHAM MANSION, MG ROAD, SECUNDERABAD, Rangareddy, Telangana, 500003
(GSTIN: **36AAGFV2068P1ZJ)**

Copy to The Pr. Commissioner of Central Tax, Secunderabad GST Commissionerate, Hyderabad. / Review Section, Secunderabad GST Commissionerate, Hyderabad.

Copy to The Commissioner, SGST, Commercial Tax Building, Opp.Gandhi Bhavan, Nampally, Hyderabad-500001 **(As per Section 107(15) of the CGST Act, 2017)**.

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