IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14038 OF 2026

Roadway Solutions India Infra. Ltd.
S.N-29, H.N-20, Near Kubex Society
Near Shera School, Kondhwa, Pune
Maharashtra – 411 048 … Petitioner

Versus

1. The State of Maharashtra
   Through Government Pleader,
   High Court, Mumbai – 400 032

2. The Commissioner of State Tax,
   8th Floor, GST Bhavan
   Mazgaon, Mumbai – 400 010

3. The Assistant Commissioner of State Tax,
   INV-D-0114/031,
   Investigation-A, Cabin No.A-4, 2nd
   Floor, GST Bhavan, Mazgaon – 400 010 … Respondents

WITH
WRIT PETITION NO.14039 OF 2026

Roadway Solutions India Infra. Ltd.
S.N-29, H.N-20, Near Kubex Society
Near Shera School, Kondhwa, Pune
Maharashtra – 411 048 … Petitioner

Versus

1. The State of Maharashtra
   Through Government Pleader,
   High Court, Mumbai – 400 032

2. The Commissioner of State Tax,
   8th Floor, GST Bhavan
   Mazgaon, Mumbai – 400 010

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

3. The Assistant Commissioner of State Tax,
INV-D-0114/031,
Investigation-A, Cabin No.A-4, 2nd
Floor, GST Bhavan, Mazgaon – 400 010 … Respondents

WITH
WRIT PETITION NO.14040 OF 2026

Roadway Solutions India Infra. Ltd.
S.N-29, H.N-20, Near Kubex Society
Near Shera School, Kondhwa, Pune
Maharashtra – 411 048 … Petitioner

Versus

1. The State of Maharashtra
Through Government Pleader,
High Court, Mumbai – 400 032

2. The Commissioner of State Tax,
8th Floor, GST Bhavan
Mazgaon, Mumbai – 400 010

3. The Assistant Commissioner of State Tax,
INV-D-0114/031,
Investigation-A, Cabin No.A-4, 2nd
Floor, GST Bhavan, Mazgaon – 400 010 … Respondents

****

Mr. Darius Shroff, Senior Advocate a/w Adv. Parag Khandhar, Adv. Kiran Chavan, Adv. Tapan Radkar i/b. Cenex Legal LLP, for the petitioner.
Smt. Shruti D. Vyas, Addl.G.P. a/w Mr. A. R. Deolekar, AGP, for the respondent-State.
Mr. Rajan N. Badar, Officer, ACST, SGST present.

****

CORAM : M. S. KARNIK &
SANDESH D. PATIL, JJ.

DATE : 27th OCTOBER 2026

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

JUDGMENT (PER M. S. KARNIK, J.) :

1. The present writ petitions involved common issues and hence were disposed of by a common judgment. The only difference is the recovery period viz. 2023-24/2026-27, 2024-25/2026-27 and 2025-26/2026-27.

2. The petitioner has filed these writ petitions under Article 226 of the Constitution of India against Intimations of Recovery dated 4th September 2026, 23rd September 2026 and five Notices to various Banks dated 29th September 2026 under Section 79(1)(c) of the Central Goods and Services Tax Act, 2017 ("the said Act", for short), issued by respondent No.3, through which proceedings are initiated for recovery of interest.

3. The case of the petitioner is that the proceedings are initiated for recovery of interest although the entire amount of tax has already been deposited by the petitioner and the Appeal Order dated 13th July 2026 of the First Appellate Authority, upholding such interest, has been challenged by the petitioner before the Goods and Services Tax Appellate Tribunal ("Tribunal", for short),

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

under Section 112 of the said Act.

4. The facts of the case in brief are that the petitioner is engaged in construction, maintenance and repairs of highways and internal roads, as per the contracts awarded by NHAI, MSRDC, PWD, etc. State GST Officers inspected the GSTR-3B Returns of the petitioner between 6th January 2026 to 14th January 2026 and alleged that there was some delay in depositing tax dues in respect of certain services/invoices and therefore, interest is payable for such delay.

5. Show Cause Notice dated 22nd January 2026 was issued for recovery of interest under Section 50 of the said Act. The petitioner filed a reply to the said Show Cause Notice on 16th March 2026. Through email dated 9th April 2026, the petitioner requested the Adjudicating Authority to consider their reply before passing any order. The Adjudicating Authority passed the order dated 16th April 2026 with summary (DRC-07) confirming the demand of interest. Aggrieved by the said order, the petitioner filed an appeal before the First Appellate Authority

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

on 24th April 2026.

6. The petitioner made various representations between 30th January 2026 and 22nd May 2026 concerning the underlying transactions, arbitral proceedings and proposed consequential accounting and tax adjustments before the respondents, from time to time. The First Appellate Authority, vide order dated 13th July 2026 rejected the appeal filed by the petitioner. Aggrieved by the said order, the petitioner filed an appeal before the Tribunal.

7. It is the petitioner's contention that although the appeal is pending before the Tribunal, the respondent No.3 issued impugned intimations for recovery of alleged interest. The petitioner replied to the impugned intimations on 9th September 2026 and 24th September 2026 and brought to the notice of the GST Authorities that as per Section 78 of the said Act, no recovery should be made until expiry of three months from the date of service of the order.

8. Through five separate notices dated 29th September 2026, issued under Section 79(1)(c) of the said Act, the respondent No.3

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

directed petitioner's Banks to pay a sum of Rs.22,12,15,180/- to the Government forthwith or upon the money becoming due or being held on account of the petitioner.

9. It is the contention of the petitioner that the GST Department's initiation of recovery proceedings and freezing of bank accounts of the petitioner intermittently has resulted in hampering the business activities of the petitioner.

10. Mr. Darius Shroff, learned Senior Advocate for the petitioner, submitted that the recovery proceedings have been initiated by respondent No.3 contrary to the provisions of law and without considering and appreciating the fact that an appeal filed by the petitioner before the Tribunal, against the First Appellate Authority's order, is pending. It is submitted that as per Section 107(6) and/or Section 112(8) of the said Act, there is no requirement of pre-deposit of any interest when the entire amount of tax has been paid. It is further submitted that as per Section 107(7) and Section 112(9) of the said Act, if an appeal has been filed before the Appellate Authorities, after making the statutorily

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

required pre-deposit, recovery proceedings for the balance amount is deemed to have been stayed. It is then submitted that when the recipients of services have disputed and claimed deficiency in the services and withheld the payment of the value of services as well as tax thereon and those matters are sub judice before the Hon'ble Courts, the petitioner is not required to pay the tax itself, and they are eligible and entitled to refund of the tax already paid. It is therefore the contention of learned Senior Advocate that interest on such tax is not payable.

11. Learned Senior Advocate relied upon the following decisions in support of his submissions :-

(1) Evergreen Construction Pvt. Ltd. vs. Commissioner of Commercial Taxes[1].

(2) Tejas Arecanut Traders vs. Joint Commissioner of Commercial Taxes (Appeals)[2].

(3) Magnum Estates Pvt. Ltd. vs. Additional Commissioner, GST (Appeals), Bhubaneswar[3].

(4) Hongkong and Shanghai Banking Corporation Ltd.

1 (2024) 17 Centax 262 (Cal.)
2 (2024) 18 Centax 102 (Kar.)
3 (2026) 44 Centax 225 (Ori.)

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

vs. State of Maharashtra[4].

12. Ms. Vyas, learned Additional Government Pleader for the respondents, supported the impugned recovery notice. It is submitted that interest is compensatory in character and arises due to delayed availability of tax revenue to the Government. Therefore, subsequent payment of tax may discharge the principal liability but does not erase the statutory consequence arising due to delay. Learned Additional Government Pleader submitted that in the present case, the petitioner has not disputed the fact that the outward supplies were affected in the earlier tax period and the corresponding tax was discharged subsequently. It is the submission that the delayed declaration of invoices in Form GSTR-1 cannot alter the time of supply or shift the statutory due date for payment of tax. Therefore, the demand of interest confirmed by the Adjudicating Authority is legally sustainable. It is submitted that accordingly, the impugned order dated 16th April 2026 passed by respondent No.3 is upheld to the extent of confirmation of interest payable under Section 50 of the CGST/MGST Act, 2017.

4 (2026) 40 Centax 54 (Bom.)

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

13. Learned Additional Government Pleader was at pains to point out that the petitioner has filed returns and paid admitted delayed payment, on which interest under Section 50 of the said Act is payable automatically.

14. Further submission of the learned Additional Government Pleader is as under :-

(A) Interest liability under the GST Act is considered admitted if it arises from self-assessed tax liability disclosed in returns (GSTR-3B) that was paid late, allowing for recovery without adjudication. Accepted liability under the GST Act generally refers to the tax, interest, or penalty dues that a taxpayer has admitted to or self-assessed in their returns, which are subsequently recorded in the Electronic Liability Register. Self-Assessed Liability includes liabilities reported by the taxpayer in their regular returns such as GSTR-3B, GSTR-4 etc., which are finalized upon filing.

(B) Section 37 of the CGST/MGST Act, 2017 mandates every registered person to furnish details of outward supplies of goods or services or both in such form, manner and within such time as may

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

be prescribed. The said provision deals with reporting and disclosure of outward supply details by the registered person. Section 37 of the CGST/MGST Act mandates furnishing the details of outward supplies of services effected during the period on or before the tenth day of the month succeeding the said tax period, and such details [shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies] if the invoices are issued. Form GSTR-1 is a statement containing details of outward supplies furnished in accordance with Section 37 of the Act. The purpose of GSTR-1 is disclosure of invoice-wise particulars of outward supplies and communication of such details to recipients for further compliance under the GST framework. Form GSTR-1 is merely a statement containing details of outward supplies furnished under Section 37. The purpose of GSTR-1 is disclosure of invoice-wise particulars so that corresponding input tax credit may flow to the recipient subject to fulfilment of statutory conditions. On the other hand, the actual discharge of tax liability is effected through the return furnished under Section 39,

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

namely Form GSTR-3B. The self-assessed tax liability declared therein is discharged by utilisation of the electronic cash ledger and/or electronic credit ledger in accordance with Section 49 of the CGST/MGST Act, 2017, namely Form GSTR-3B. It is through this return that self-assessed tax becomes payable and is discharged by debiting the electronic cash ledger and electronic credit ledger maintained under Section 49.

(C) Thus, the statutory scheme clearly distinguishes between : (i) furnishing details of outward supplies under Section 37; and (ii) discharge of tax liability through returns and payment mechanisın under Sections 39 and 49. Both statutory compliances operate in different fields, though they are interconnected under the GST framework.

(D) Therefore, delayed reporting or subsequent declaration of invoices in Form GSTR-1 cannot postpone, defer, or alter the statutory liability to pay tax along with applicable interest thereon, where the taxable supply has already taken place and the time of supply has occurred under the provisions of the Act.

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

(E) So far as the Electronic Liability Register is concerned, all such accepted liabilities are auto-populated in the Electronic Liability Register (Form GST PMT-01) on the GST portal.

15. **For the F. Y. 2023-24**

Tax liability disclosed by the petitioner in the return in Form GSTR-1 for the month of September 2023 and payments against this liability are made in returns in Form GSTR-3B in the month of Sep-23, Jan-24 and Mar-24. The details are submitted in the following table.

Tax Period	Liability disclosed in the GSTR-1	Date of GSTR-1 filed.	Payment made in GSTR-3B	Date of GSTR-3B filed.
Sep-23	34,35,59,157.84	11/10/2023	16,64,08,248.00	20/10/2023
Jan-24	0.00	05/03/2024	7,83,54,522.00	05/03/2024
Mar-24	0.00	19/04/2024	9,87,96,388.00	20/04/2024
Total	**34,35,59,157.84**		**34,35,59,158.00**	

16. All the liability disclosed by the Petitioner in Form GSTR-1 and payment of the same in the return GSTR-3B is before the investigation visit of this office. It clearly states that the payments are made voluntarily by the taxpayer.

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

17. **For the F. Y. 2024-25**

Tax liability disclosed by the petitioner in the return in Form GSTR-1 in the month of September 2024 and payments against this liability are made in the returns in GSTR-3B in the month of Sep-24, Nov-24, Dec-24, Jan-25, Feb-25 and Mar-25. The details are submitted in the following table.

Tax Period	Liability disclosed in the GSTR-1	Date of GSTR-1 filed.	Payment made in GSTR-3B	Date of GSTR-3B filed.
Sep-24	35,63,82,163	11/10/2024	12,01,70,216	21/11/2024
Nov-24	0	04/01/2025	10,27,14,362	04/01/2025
Dec-24	0	20/01/2025	3,42,03,970	20/01/2025
Jan-25	0	20/02/2025	5,18,00,456	20/02/2025
Feb-25	17,41,472	15/03/2025	4,92,34,628	15/03/2025
Mar-25	6,14,79,771	24/04/2025	6,14,79,771	24/04/2025
Total	**41,96,03,407**		**41,96,03,403**	

18. All the liability disclosed by the petitioner in Form GSTR-1 and payment of the same in the return GSTR-3B is before the investigation visit of this office. It clearly states that the payments were made voluntarily by the taxpayer.

19. **For the F. Y. 2025-26**

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

Tax liability disclosed by the petitioner in the return in form GSTR-1 in the month of September 2025 and payments against this liability are made in the returns in GSTR-3B in the months of Sep-25, Oct-25, Feb-26 and Mar-26. The details are submitted in the following table.

Tax Period	Liability disclosed in the GSTR-1	Date of GSTR-1 filed.	Payment made in GSTR-3B	Date of GSTR-3B filed.
Sep-25	46,23,80,226	10/10/2025	9,24,82,196	24/10/2025
Oct-25	0	09/12/2025	2,08,56,634	10/12/2025
Feb-26	20,65,314	04/03/2026	20,65,314	17/03/2026
Mar-26	7,29,59,400	11/04/2026	7,29,59,400	17/04/2026
Total	**53,74,04,940**		**18,83,63,544**	

20. The petitioner's contention is that the petitioner, however discharging the liability under protest cannot be accepted considering the fact that the petitioners have discharged their tax liability even prior to investigation proceedings being initiated by the respondents. Thus, the liability to pay tax is disclosed prior to the date of visit.

21. However, following the principle of natural justice, the respondents issued a show cause notice dated 22nd January 2026

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

requesting to discharge the interest liability. Vide letters dated 12th February 2026 and 16th March 2026, the petitioner was allowed 30 days' time to file for reply. Reasonable opportunity of being heard is given to the petitioner, though these facts were brought to the petitioner's notice during the course of the investigation visit, in the interest of natural justice and sufficient opportunity of being heard is given to the petitioner.

22. Despite being granted ample opportunities to discharge the interest liability arising from short payment of tax, the petitioner failed to discharge the self-assessed liability of interest under Section 50 of the MGST Act, 2017 within the prescribed time.

23. Section 75(12) recognises that once a tax liability is self-assessed by a registered person in the return furnished under Section 39, such liability represents an admitted liability of the petitioner.

24. Where the self-assessed tax liability has been admitted and discharged belatedly, the consequential liability to interest

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

under Section 50 arises automatically by operation of law. The petitioner cannot avoid such interest merely by disputing the liability after having accepted the underlying tax and the fact of delayed payment.

25. It is submitted that Section 75(12) of the GST Act, 2017, provides that where any amount of self-assessed tax in accordance with a return furnished under Section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recoverable under Section 79 of the Act.

26. The sub-section (12) of Section 75 of the MGST Act, 2017 is reproduced as under :

> "Notwithstanding anything contained in Section 73 or Section 74, where any amount of self-assessed tax in accordance with a return furnished under Section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of Section 79. Section 75(12) recognises that once a tax liability is self-assessed by a registered person in the return furnished under Section 39, such liability represents an admitted liability of the taxpayer. Consequently, unpaid self-assessed tax and interest payable thereon are treated differently from disputed tax demands requiring determination under Sections 73 or 74 of the Act. The provision therefore

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

> enables recovery of such admitted liability in accordance with Section 79 without requiring a fresh determination of the liability already admitted by the taxpayer."

27. The relevance of Section 75(12) in the present case is that the petitioner has ultimately discharged the tax liability through returns furnished under Section 39, thereby accepting the underlying tax liability. Once such admitted liability was discharged beyond the prescribed due date, interest under Section 50 became payable as a statutory consequence for the period of delay. Thus, the present proceedings essentially concern recovery of statutory interest arising from delayed payment of admitted tax and not determination of any disputed tax liability.

28. The provision is justified because GST is a self-assessment-based tax system. If a person files a return declaring tax liability, the law expects payment of that admitted amount within the prescribed time. If not, the revenue must have a direct recovery path, otherwise the self-assessment system would become ineffective. In such cases, the department issues a communication asking the taxpayer to pay the unpaid self-assessed tax or explain the shortfall. If the taxpayer does not pay, recovery action under

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

Section 79 may follow.

29. In the present matter, the petitioner does not dispute either the underlying taxable supplies or the corresponding tax liability. The record reveals that the petitioner ultimately discharged the tax through returns furnished under Section 39 after considerable delay. Once the tax liability stood admitted and discharged belatedly by the taxpayer, the corresponding liability towards interest under Section 50 became a statutory consequence. Read conjointly, Sections 50, 75(9) and 75(12) clearly indicate that statutory interest on delayed payment of admitted tax neither depends upon a fresh adjudication of tax liability nor ceases merely because the tax has subsequently been paid.

30. Further, every registered person other than ISD or NRTP or person paying tax under Section 10 or 51 or 52 shall furnish a return under sub-section 1 of Section 39. For every calendar month or part thereof, furnish a return, electronically, of inward and outward supplies of goods or services or both, input tax credit

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed. The petitioner has paid tax as disclosed in outward supply furnished under Section 37.

31. Thus, from the records, it is evident that the petitioner has discharged the tax liability belatedly through Form GSTR-3B as discussed in the annexure to the impugned order. However, the applicable interest on such delayed payment was not discharged by the petitioner. Considering the provisions of Section 50 read with Sections 75(9) and 75(12), Appellate Authority has held that the adjudicating authority i.e. this office has correctly confirmed the liability towards statutory interest. The contention that delayed reporting of invoices in Form GSTR-1 postpones the liability to pay tax is contrary to the statutory scheme of the Act and is therefore rejected by the Appellate Authority.

32. It is further observed that the liability to pay interest under Section 50 is not dependent upon initiation of recovery proceedings or establishment of intention to evade payment of tax.

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

Interest is compensatory in character and arises due to delayed availability of tax revenue to the Government. Therefore, subsequent payment of tax may discharge the principal liability but does not erase the statutory consequence arising due to delay.

33. Details of interest liability are reproduced as below table.

SR NO	FY	IGST	CGST	SGST	Total INTEREST
1	2023-2024	0	3,52,57,993	3,52,57,993	7,05,15,986
2	2024-2025	27,785	3,74,54,531	3,74,54,531	7,49,36,847
3	2025-2026	13,06,751	3,72,27,798	3,72,27,798	7,57,62,347
	Total	**13,34,536**	**10,99,40,322**	**10,99,40,322**	**22,12,15,180**

34. Learned Additional Government Pleader thus submitted that,

(i) Section 50, CGST/OGST Act - Interest on delayed payment of tax is a statutory and automatic levy, not dependent on the discretion of authorities. It is generally treated as non-disputable.

(ii) Section 107(6)(a), CGST/OGST Act - No appeal shall be filed unless the admitted tax, interest, fine, fee, and penalty are paid in full. Thus, an appeal solely against interest liability is not

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

maintainable.

(iii) The taxpayer's appeal against interest liability is not maintainable under Section 107(6) and Section 112(8) of the MGST Act, 2017.

35. We have heard Mr. Darius Shroff, learned Senior Advocate for the petitioner and Ms. Vyas, learned Additional Government Pleader for the respondents. We have perused the writ petitions and the materials on record.

36. The Show Cause Notice dated 22nd January 2026 proposed to recover interest of Rs.7,05,15,986/- and by the order dated 16th April 2026 said interest was confirmed for the period April 2023 to March 2024. Aggrieved by the said order, the petitioner filed an appeal before Deputy Commissioner of State Tax Appeal-3 (First Appellate Authority) under Section 107 of the Act, who, vide order dated 13th July 2026 upheld the order dated 16th April 2026 passed by respondent No.3. Aggrieved by the order dated 13th July 2026 passed by First Appellate Authority, the petitioner filed the appeal before the Second Appellate Authority

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

(i.e. the Tribunal) and the same is pending for decision. Thus, the present writ petitions are restricted to the disputed interest and according to the petitioner no percentage-based pre-deposit of that disputed interest is required under Section 112(8)(b).

37. It is not in dispute that the petitioner has discharged the entire tax liability. The petitioner is not admitting the tax liability but says that during the course of investigation, has discharged the tax liability under protest. It is therefore the case of the petitioner that upon compliance with Section 112(8), recovery of the balance amount covered by the appeals is deemed stayed under Section 112(9) until disposal of the appeals before the Tribunal.

38. The petitioner is seeking enforcement of the statutory protection, while the merits of the interest demands remain for adjudication before the Tribunal. It is the submission of the petitioner that the impugned recovery proceedings in respect of the demands covered by its appeals before the Tribunal and the statutory protection under Section 112(9), are contrary to law.

39. For the facility of convenience, Section 50, Section 75(9)

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

and Section 75(12) of the CGST/MGST Act are reproduced which read thus :-

> "**50. Interest on delayed payment of tax**
>
> (1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council :
>
> Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 [or section 74A] in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.
>
> (2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.
>
> (3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.
>
> **75. General provisions relating to determination of tax**
>
> (9) The interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

tax liability.

> (12) Notwithstanding anything contained in Section 73 or Section 74 [or Section 74A], where any amount of self-assessed tax in accordance with a return furnished under Section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of Section 79."

40. Section 75(12) recognises that once a tax liability is self-assessed by a registered person in the return furnished under Section 39, such liability represents an admitted liability of the taxpayer. Consequently, unpaid self-assessed tax and interest payable thereon are treated differently from disputed tax demands requiring determination under Sections 73 or 74 of the Act. The provision therefore enables recovery of such admitted liability in accordance with Section 79 without requiring a fresh determination of the liability already admitted by the taxpayer.

41. The relevant provisions indicate that for filing an appeal before First Appellate Authority, under Section 107 of CGST/MGST Act, 2017 or, for that matter, before the Second Appellate Authority viz. the Tribunal under Section 112 of the Act, the petitioner is required to make specified amount of pre-deposit,

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

as specified therein.

42. Significant in the context of the present case would be a reference to sub-section (6) of Section 107 of CGST/MGST Act for the purpose of filing appeal before the First Appellate Authority. Section 107(1) and 107(6) is reproduced hereunder for the facility of convenience :-

> "**107. Appeals to Appellate Authority**
>
> (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an Adjudicating Authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.
>
> (6) No appeal shall be filed under sub-section (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 ten per cent. of the remaining amount of tax in dispute arising from the said order, [subject to a maximum of [twenty] crore rupees,] in relation to which the appeal has been filed:
>
> Provided that in case of any order demanding penalty without involving demand of any tax, no appeal shall be filed against such order unless a sum equal to ten per cent. of the said penalty has been paid by the appellant."

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

43. A reading of Section 107(6) of CGST/MGST Act indicates that the petitioner is required to pre-deposit entire undisputed amount of tax, interest, penalty etc. and 10% of the disputed tax, arising out of the order appealed against, if tax, interest and penalty are under challenge or 10% of the penalty, if only penalty is in dispute. There is no mention of deposit of any amount towards interest, if interest alone is under challenge. Likewise, for filing an appeal before the Tribunal under Section 112(8) of the CGST/MGST Act, similar provisions exist i.e. entire undisputed amount of tax, interest and penalty are required to be deposited and the sum equal to 10% of the remaining amount of tax in dispute, in addition to the amount paid/deposited under Section 107(6), while filing the appeal before the First Appellate Authority.

44. Perusal of Section 107(6) and Section 112(8) of the CGST/MGST Act make it clear that there is no requirement of pre-deposit of interest, when entire amount of tax has been paid. Factually, the First Appellate Authority, i.e. Deputy Commissioner of State Tax Appeals-3, did not insist for any pre-deposit of

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

interest, obviously since the entire amount of tax was paid by the petitioner. Likewise, the appeal before the Tribunal also has been accepted and acknowledgment to that effect has been issued by the Tribunal, without making any pre-deposit of interest, considering the undisputed fact that entire amount of tax has already been deposited.

45. At this juncture it would be pertinent to extract the provisions of Section 107(7) of the CGST/MGST Act which reads thus :-

> "**107. Appeals to Appellate Authority**
>
> (7) Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.

46. A perusal of Section 107(7) of the CGST/MGST Act indicates that once an appeal has been filed, after making the statutorily required pre-deposit as applicable before the First Appellate Authority, recovery proceedings for the balance amount is deemed to have been stayed. Likewise, after filing an appeal before the Tribunal, when the petitioner has made the statutorily required pre-deposit under Section 112(8) of the CGST/MGST Act,

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

recovery proceedings for the balance amount are deemed to have been stayed. In this context, for the facility of convenience, Section 112(8) and 112(9) of the CGST/MGST Act is extracted which reads thus :-

> "**112. Appeals to Appellate Tribunal**
>
> (8) No appeal shall be filed under sub-section (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 [ten per cent.] of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of section 107, arising from the said order, [subject to a maximum of [twenty crore rupees],] in relation to which the appeal has been filed:
>
> Provided that in case of any order demanding penalty without involving demand of any tax, no appeal shall be filed against such order unless a sum equal to ten per cent. of the said penalty, in addition to the amount payable under the proviso to sub-section (6) of section 107 has been paid by the appellant.
>
> (9) Where the appellant has paid the amount as per sub-section (8), the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal."

47. It is not in dispute that the entire tax underlying the impugned interest demands has been discharged by the petitioner.

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

The remaining demands challenged before the Tribunal are demands for disputed interest. The petitioner relies upon compliance with the applicable requirements of Section 112(8) and the consequent protection under Section 112(9). We therefore have no hesitation in holding that the percentage-based pre-deposit prescribed by Section 112(8)(b) does not extend to disputed interest alone, especially when the entire tax has been paid. The merits of the interest demands, including the applicable tax base, payment dates and computation, are the subject of the pending appeals before the Tribunal.

48. The petitioner does not dispute that Section 79(1)(c) permits notices to persons holding money for or on account of a taxable person, including banks. The challenge is to the exercise of that power for recovery of the identified interest demands notwithstanding the statutory protection claimed under Section 112(9).

49. It is the submission of the petitioner that it made substantial payments in the circumstances of repeated banking

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

restrictions, while its objections and reservations were communicated to the respondents. The representations dated 30th January 2026, 6th February 2026, 30th March 2026, 4th April 2026 and 22nd May 2026 record the project disputes, financial constraints, payment arrangements and proposed consequential accounting and tax adjustments. According to the petitioner, the payments made to restore or preserve banking operations cannot, by themselves, be treated as acceptance of the separately disputed interest computation. The petitioner is claiming refund. The petitioner says that it is entitled to a refund of around Rs.80,00,00,000/-, as submitted in the representation dated 30th January 2026. All these contentions are kept open. We express no opinion on this aspect.

50. Learned Senior Advocate submitted that the petitioner has made payments to the tune of Rs.35,66,61,186/- notwithstanding the petitioner's recorded objections and financial constraints. It is his submission that from the reservation expressed by the petitioner in the representations, it is obvious that this may not amount to acceptance of the tax liability or abandonment of

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

statutory remedies. It is therefore submitted that the tax liability has not been discharged as an admitted tax liability but the petitioner has disputed the liability to pay tax and thus the petitioner has discharged the entire tax liability which according to the petitioner is under protest. These contentions obviously may be raised before the appropriate forum. We express no opinion.

51. We therefore have no hesitation in holding that the recovery initiated is in the teeth of the provisions of Section 112(9) of the CGST/MGST Act. Consequently, the writ petitions are allowed in terms of prayer clauses (a), (b) and (c) which read thus :-

> (a) issue an appropriate writ, order or direction under Article 226 of the Constitution of India quashing and setting aside the impugned recovery communications dated 04.09.2026 and 23.09.2026 (Exhibits "A" and "B") and the consequential notices dated 29.09.2026 issued to the banks under Section 79(1)(c) (Exhibits "C" to "G"), insofar as they seek recovery, contrary to the protection under Section 112(9) of the Act, in respect of the interest demands covered by the Petitioner's pending GSTAT appeals;
>
> (b) declare that, upon compliance with the applicable requirements of Section 112(8) of the Act in respect of the appeals covering the impugned interest demands, recovery of the balance amounts stands stayed under Section 112(9) until disposal of those appeals, and direct the Respondents to give effect to that statutory protection;

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47

(c) direct Respondent No.3 to withdraw the impugned bank notices dated 29.09.2026 (Exhibits "C" to "G"), communicate the withdrawal forthwith to the respective banks, and cause all debit restrictions imposed solely pursuant to those notices to be lifted so as to restore ordinary banking operations."

52. The writ petitions are disposed of. No order as to costs.

(SANDESH D. PATIL, J.) (M. S. KARNIK, J.)

Uploaded on - 27/10/2026 Downloaded on - 30/10/2026 12:40:47