GOODS AND SERVICES TAX APPELLATE TRIBUNAL

State Bench Patna

Division Bench Court No. II

APL/1/PTN/2026

MEDICARE ENVIRONMENTAL MANAGEMENT PRIVATE LIMITED **.....Appellant**

Versus

SUNIL KUMAR, LD. ADDITIONAL COMMISSIONER OF STATE TAX, MUZAFFARPUR EAST TIRHUT BIHAR & ORS. **.....Respondent**

Quorum

Hon'ble Manoj Kumar Sinha, Member(Judicial)

Hon'ble Sanjay Kumar Mawandia, Member (Technical)

Counsel for Appellant
RAHUL S JAIN, CA

Counsel for Respondent
JCST, MUZAFFARPUR, EAST CIRCLE

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

whether remand order: Yes

Order reference no.:
ZA360041126000128H

Date of order :
23/11/2026

1.	GSTIN/Temporary ID/UIN - 10AACCM4008R2ZJ	
2.	Appeal Case Reference no. - APL/1/PTN/2026	Date - 17/02/2026
3.	Name of the appellant - MEDICARE ENVIRONMENTAL MANAGEMENT PRIVATE LIMITED , gstresl@resustainability.com , 8885024704	
4.	Name of the respondant - 1. Law Section (Headquarters) Commercial Taxes Department Bihar , etdhqlaw-bih@gov.in , 9263799126 2. Sunil Kumar	
5.	Order appealed against - AD100324007107W	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD100825036048M	Date - 29/08/2025
6.	Personal Hearing - 23/11/2026 29/10/2026 09/10/2026 25/09/2026 14/08/2026 03/08/2026	
7.	Order in brief - The impugned order dt. 29.08.2025 and O-I-O dt. 29.12.2023 are hereby set aside. The matter is remanded back to the adjudicating authority for de-novo adjudication strictly in accordance with law and the observation made in the order. The adjudicating authority shall verify all relevant records and documents produced by the appellant and pass a reasoned order after granting adequate opportunity of personal hearing in compliance with the principal of natural justice. The appellant is directed to co-operate in adjudication proceeding and submit all requisite documents before the adjudicating authority at the earliest. No order as to costs.	
	Summary of Order	

8.	If demand order then whether demand quantified: No

9.	For Other orders and Demand orders which are not quantified:	
Issues as raised by proper officer	Issues as determined by Appellate/Revisional authority	Order by GST Appellate Tribunal
Short or non-payment of tax	The Appellate Authority has upheld the order passed by the Adjudicating Authority and confirmed the demand along with interest and penalty stating that the exempted turnover should have been disclosed in the VAT return and it is upto the appellate authority to determine whether the turnover is exempted or not.	
10.	If remanded with directions:	
	a) Remanded to: Adjudicating Authority	
	b) Directions subject to which remanded, if any: The matter is remanded under Section 113(1) to the original adjudicating authority for detailed verification. The authority shall pass a fresh, reasoned order in accordance with law and the findings in the order, after hearing the appellant.	

Place: PATNA

Date: 23.11.2026

Manoj Kumar Sinha
Designation: Member Judicial
Jurisdiction: Patna

FINAL ORDER

A. THE APPEAL

1. Medicare Environmental Management Private Limited (hereinafter referred to as the "Appellant") has filed this appeal under Section 112 of the Bihar Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Act, 2017 (together, "the Act"). It challenges the Order-in-Appeal bearing Reference No. ZD100825036048M dated 29.08.2025, (hereinafter referred to as the "impugned order"), passed by the Additional Commissioner of State Tax (Appeals), Tirhut Division, Muzaffarpur ("the First Appellate Authority"). That order confirmed the ex-parte order dated 29.12.2023 passed under Section 73 ("the Order-in-Original").

2. The demand rests on one comparison. The Respondent compared the turnover of Rs. 1,09,42,270/- (April to June 2017) shown in Table 5G of Form GSTR-9C with the gross turnover of Rs. 6,52,347/- shown in the Bihar VAT Return RT-1 for the said period and has treated the difference of Rs. 1,02,89,923/- as "suppressed turnover" under GST.

The amount in dispute, as recorded in the impugned order and Form GST APL-04, is as follows:

Particulars	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)	Total (Rs.)
Tax	8,79,788.00	8,79,788.00	Nil	17,59,576.00
Interest (Section 50)	8,62,096.00	8,62,096.00	Nil	17,24,192.00
Penalty (Section 73(9))	87,979.00	87,979.00	Nil	1,75,958.00
Total	**18,29,863.00**	**18,29,863.00**	**Nil**	**36,59,726.00**

2.1 Mandatory Pre-Deposit: In terms of clause (b) of sub-section (8) of Section 112 of the CGST Act, 2017, the Appellant is required to pay 10% of the amount of tax demanded as pre-deposit amounting to Rs. 1,75,958/-. The Appellant submits that they have deposited the applicable pre-deposit vide electronic cash ledger. A copy of the payment challan bearing CPIN: 25111000036345 dated 12.11.2025 along with cash ledger evidencing the payment of pre-deposit by debiting the cash ledger vide debit entry number DC1011250028508 is annexed as Annexure-2. The circle Incharge of Muzaffarpur East circle (Respondent) has also verified the payment of pre-deposit vide letter No. 435 dt 29.10.2026.

B. BRIEF FACTS SUBMITTED BY THE APPELLANT

3. The appellant provides bio-medical waste management services and also sells goods, including plastic waste. Before 01.07.2017, it

had a centralised service tax registration at Gurgaon and VAT registrations in Bihar and six other States.

4. For FY 2017-18, the appellant's PAN-India turnover reflected in its audited financial statements (Annexure-8) is stated to be Rs. 59,93,11,155/-. This comprises services of Rs. 49,61,85,942/- and sale of goods of Rs. 10,31,25,213/-.

GST came into force on 01.07.2017, so the audited year included three months of pre-GST turnover. The appellant gives the following PAN-India break-up:

Period	**Services (Rs.)**	**Sale of goods (Rs.)**	**Total (Rs.)**
FY 2017-18	49,61,85,942	10,31,25,213	59,93,11,155
April to June 2017 (pre-GST)	12,20,31,885	2,30,76,061	14,51,07,946
July 2017 to March 2018 (GST)	37,41,54,079	8,00,49,167	45,42,03,246

According to the appellant's state-wise break-up for April to June 2017, filed with the grounds of appeal on 17.02.2026, Rs. 1,03,49,922/- of service turnover and Rs. 6,43,573/- of sales turnover total amounting Rs.1,09,93,495.00 relates to Bihar. The Bihar service figure comprises bio-medical waste management charges of Rs. 1,02,98,422/- and registration fees of Rs. 51,500/-. For Bihar, the

books and a CA certificate show April–June 2017 revenue as follows:

Revenue head (Bihar, April–June 2017)	**Amount (Rs.)**	**Where reported**
Bio-medical waste charges	1,02,98,422	Form ST-3, as exempt service
Sale of goods, incl. plastic waste	6,43,573	VAT RT-1 (Rs. 6,52,347/-)
Registration fees (non-operating)	51,500	—
Total as per books	**1,09,93,495**	

5. Table 5G of GSTR-9C reflects Rs. 1,09,42,270/- for Bihar. The difference of Rs. 51,225/- from the books is mostly the registration fee.

The appellant states that bio-medical waste management services were exempted from service tax under Entry 2B of Notification No. 25/2012-ST dated 20.06.2012 and was reported in Form ST-3. Notification No. 18/2017-ST dated 22.06.2017 required the return for 01.04.2017 to 30.06.2017 to be filed by 15.08.2017. The appellant filed Form ST-3 on 15.08.2017, showing turnover of Rs. 2,31,52,896/- under "cleaning services". It concedes that the actual PAN-India service turnover for the quarter was Rs. 12,20,31,885/-.

It calls this an inadvertent error and further say that no service tax was payable because the services were exempted under the statutes.

For April to June 2017, the appellant also and filed VAT return in Form RT-1 under Section 24 of that Act. RT-1 disclosed a total turnover of Rs. 6,52,347/-, relating to sale of goods only.

The appellant submits that as per mechanism of GSTR 9C, the Bihar figure of service turnover and sales turnover for April to June,17 was disclosed in GSTR-9 and GSTR-9C. The Department compared it with the RT-1(VAT Return) figure of Rs. 6,52,347/- and alleged suppression of Rs. 1,02,89,923/-.

C. CHRONOLOGY OF EVENTS

6. A show cause notice dated 30.09.2023 under Section 73(1) was issued in Form GST DRC-01. Its operative part reads, in substance:

In Table 5G of GSTR-9C for 2017-18, the turnover for April 2017 to June 2017 was shown as Rs. 1,09,42,270/-, which was reduced from the total turnover. For July 2017 to March 2018, GST turnover was shown as Rs. 3,72,18,270/- and tax on it was accepted. The VAT returns for 2017-18 on VATMIS showed a Gross Turnover of Rs. 6,52,347/-. The discrepancy of Rs. 1,02,89,923/- between Table 5G and the VAT GTO is treated as suppression of turnover under GST.

6.1 Reminders were issued on 01.11.2023 and 19.12.2023. Despite seeking time on two occasions, the appellant failed to file reply, resulting an ex parte order on 29.12.2023.

7. The first appeal, filed on 28.03.2024, was rejected on 29.08.2025. The First Appellate Authority held that: (i) the ST-3 covered April–September and was filed on 15.08.2017; (ii) services were subsumed in GST from 01.07.2017; (iii) even exempt service turnover should have been shown in the VAT return, and it is for the Adjucating Authority to determine whether the amount is taxable or exempt; and (iv) suppression of turnover was clear when RT-1 was compared with GSTR-3B and GSTR-9. The First Appellate Authority accordingly confirmed the order passed by the Adjudicating Authority. Being aggrieved with the order dt. 29.08.2025, the appellant prefers this appeal before us.

D. GROUNDS OF APPEAL ON MERITS

8. The appellant's grounds on merits fall under two heads.

Ground A: The first appellate authority overlooked form ST-3 while comparing GSTR 9C with VAT Return. Form GSTR - 9C includes both goods and services, whereas form RT-1 under Bihar VAT reports only goods. The difference between these two returns is the Bihar service turnover, which was already declared in form ST-3.

Ground B: GSTR-9C is merely a reconciliation statement, any discrepancy reflected in it does not constitute a tax liability by itself. To raise a valid demand, the burden rests on department to establish, through cogent evidence, that an actual taxable supply occurred on which tax remained unpaid.

E. LEGAL SUBMISSIONS OF THE APPELLANT

9. The appellant submitted as follows:

(a) **The difference relates to a pre-GST period and is not taxable under GST.** GST came into force on 01.07.2017. For April to June 2017, goods were taxed under the Bihar VAT Act and services under Chapter V of the Finance Act, 1994. Section 142(11) keeps such transactions outside GST. Reliance is placed on *Tata Unistore Limited v. Commissioner, CGST & Ex., Navi Mumbai*, 2026 (8) TMI 139 (GSTAT, Thane), where it was held that issues belonging to the repealed regime cannot be reopened under GST. VAT assessment for April to June 2017 stands completed under Section 26(1) of the Bihar VAT Act, and nothing is pending. Any doubt about these receipts had to be pursued under those Acts, not under the GST Act.

(b) Table 5G of GSTR-9C is a deduction, not an addition. Under the GSTR-9C format (Notification No. 49/2018-CT), Row 5G deducts the April–June 2017 turnover from the audited full-year turnover. The appellant did exactly what the form required. The Department has treated a figure, which the form excludes from GST turnover, as taxable GST turnover and the impugned order does not deal with this.

(c) Service turnover was never reportable in RT-1. Section 24(1) of the BVAT Act and Rule 19 of the BVAT Rules require a return only of transactions in goods. RT-1 has no column for service receipts. The First Appellate Authority's question why exempt turnover was not shown in the VAT return therefore starts from a wrong premise. Accordingly, Services were returned in ST-3 under Rule 7 of the Service Tax Rules, 1994, and under Notification No. 18/2017-ST the last return covered April to June 2017 and was due by 15.08.2017. The impugned order wrongly treats it as covering April to September 2017.

(d) **The figures match:** that the bio-medical waste disposal service turnover is Rs. 1,02,98,422/-, whereas the difference of turnover (alleged suppressed figure) considered in the proceedings was Rs. 1,02,89,923/-. The difference is Rs. 8,499/- less than the exempt

service turnover of Rs. 1,02,98,422/-, because RT-1 showed Rs. 8,774/- more goods turnover than the books.

(e) **Documents on record.** The appellant has filed the audited financial statements (Annexure-8), Form ST-3 (Annexure-4), GSTR-9 and GSTR-9C (Annexure-5), VAT Return RT-1 (Annexure-6) and a CA certificate (Annexure-9). With the rejoinder, appellant filed transaction-wise listings of the April–June 2017 turnover (Rejoinder Annexures 1 and 2) and also a CA certificate dated 26.10.2026 (Annexure-C) for the Bihar turnover of Rs. 1,09,93,495/-. The appellant submits that it is the reconciliation in compliance of the submissions made by Respondent, and as such he has discharged his initial burden.

(f) **The services were exempt under both regimes:** under Entry 2B of Notification No. 25/2012-ST, and under Entry 75 of Notification No. 12/2017-Central Tax (Rate), subject to its conditions. So even under GST no tax would be payable.

(g) **Burden on the Revenue.** The burden of proving taxability lies on the Revenue (*Ratan Housing Development Ltd.*, 2025 (5) TMI 773 (CESTAT, Allahabad)), and a demand cannot rest on surmise (*Triveni Engineering*, 2016 (334) E.L.T. 595 (All.); *SVA Steel Re-Rolling Mills*, 2018 (362) E.L.T. 411 (Mad.); *Anant Jignesh Shah*,

2021 (44) G.S.T.L. 342 (Guj.)). The impugned order recorded the ST-3 but did not consider it fairly and properly.

(h) **Penalty under Section 73(9) is not leviable.** The penalty of Rs. 1,75,958/- depends on tax being due. Under *Hindustan Steel Ltd. v. State of Orissa*, 1978 (2) E.L.T. J159 (SC), penalty is not imposed for a technical breach or one based on a bona fide belief. There was no intent to evade.

F. REPLY OF THE RESPONDENT

10. The Respondent, in its counter reply dated 15.09.2026, submitted as follows:

(a) Limitation. The impugned order was communicated on 29.08.2025 and the appeal was filed on 17.02.2026, beyond three months, so the appellant must, therefore, first establish maintainability and seek condonation of delay under Section 112(6).

(b) **ST-3 was considered**, but it does not by itself reconcile the difference. The appellant must show the invoices, the dates of supply, the ledger entries, the amount included in ST-3 for April–June 2017, the amount is not repeated in the post-GST

returns, and disputed difference is fully explained by those pre-GST service receipts.

(c) **The figures are not identical.** The service turnover (Rs. 1,02,98,422/-) differs from the disputed amount (Rs. 1,02,89,923/-), and the GSTR-9C figure is a composite one.

(d) **GSTR-9C can found an enquiry.** GSTR-9C is a reconciliation statement, but a discrepancy in it can justify an enquiry into short payment. Here it was used only as a reconciliation document; liability was determined under Section 73 after comparing it with RT-1, GSTR-3B and GSTR-9.

(e) **Exemption not established.** Whether a receipt was exempt under service tax is a different question from whether it forms part of the turnover taxed in these proceedings. The appellant must prove the date and nature of each supply, and that no taxable supply made on or after 01.07.2017 is included in the difference.

(f) **Transition (without prejudice).** The Department accepts that GST came into force on 01.07.2017. But producing an ST-3 for a larger period does not entitle the appellant to automatic deletion of the demand. If verification is needed, the proper

course is a limited remand to verify invoices, ledgers, service dates, ST-3, RT-1 and the GST returns, not unconditional quashing.

(g) **Interest and the 10% penalty follow the tax.** There was no breach of natural justice, as several hearings were given.

(h) **Natural justice.** The impugned order records the written submissions, the ST-3 plea and several hearing dates. An adverse finding is not a breach of natural justice.

(i) **Prayer:** dismiss the appeal; alternatively, remand the matter for limited verification, without unconditional deletion of the demand.

G. REJOINDER OF THE APPELLANT

11. In rejoinder, the appellant submitted as follows:

(a) Under Notification S.O. 4220(E) dated 17.09.2025, appeals against orders communicated before 01.04.2026 may be filed up to 30.06.2026, so the appeal is within time.

(b) Transaction-wise listings have been filed: PAN-India April–June 2017 turnover of Rs. 14,51,06,703/- (Annexure-1) and Bihar service turnover of Rs. 1,02,98,422/- (Annexure-2). A

CA certificate dated 26.10.2026 was also filed. The Rs. 8,499/- gap arises from reconciliation workings.

(c) Burden of proof - The appellant has discharged its initial burden, and the Department has produced no material to show that the receipts are taxable. Reliance is placed on *Ratan Housing*, *Anant Jignesh Shah*, *Triveni Engineering* and *SVA Steel Re-Rolling Mills*.

(d) Transition - The VAT assessment for April–June 2017 is complete. Section 142(11)(a) and (b) bar GST on goods and services that were taxable under the earlier laws. Relying on *Tata Unistore*, such matters must be dealt with under the earlier law, not reassessed under GST.

(e) The Table 5G amount is simply the pre-GST part of the full-year accounts, which the form itself requires to be shown. To tax it, the Department must prove with evidence that it is a taxable supply.

(f) Natural justice - The question is not whether the documents were on record, but whether they were considered.

H. ISSUES FOR DETERMINATION

We have heard both sides and perused the record, including the written submissions, the counter reply, the rejoinder and the documents filed. On the basis of pleadings of both the parties, the following issues arose for determination:

I. Whether the appeal is within limitation period.

II. Whether the figure in Table 5G of GSTR-9C (April–June 2017) can, by itself or by comparison with the VAT Return RT-1, be treated as turnover liable to GST.

III. Whether receipts from services rendered during April–June 2017 were required to be disclosed in RT-1 under the Bihar VAT Act, and their absence amounts to "suppression".

IV. Whether GST can be levied on supplies made before 01.07.2017, and upon whom the burden lies to establish a taxable supply under the Act.

V. Whether the ex parte Order-in-Original and the impugned order are sustainable, in the eye of law both procedurally and on substance.

I. DISCUSSION AND FINDINGS

Issue I - Limitation

12. The Respondent has objected to limitation in general terms, without specifying any delay. The impugned order is dated 29.08.2025 and was therefore communicated before 01.04.2026. It is judicious to note here that Notification of Government of India in the Ministry of Finance, Department of Revenue, S.O. 4220(E) dated 17.09.2025, issued under Section 112(1) of GST Act, allows an appeal against such an order to be filed up to 30.06.2026. This appeal has been filed on 17.02.2026, and as such the same is within time. The issue is decided accordingly.

Issue II - Nature of the Table 5G figure in GSTR-9C

13. Form GSTR-9C and its instructions were notified by Notification No. 49/2018-Central Tax. Part II reconciles the turnover in the audited financial statements with the turnover declared in the annual return. Serial No. 5G, "Turnover from April 2017 to June 2017", is a deduction from the audited turnover, shown with a minus sign. For FY 2017-18 the audited accounts covered twelve months, while GST applied only for nine. The form therefore required every taxpayer to carve out pre-GST turnover to arrive at the net GST-period turnover.

13.1. It follows that a figure in Table 5G is, by the design of the form, turnover the taxpayer declares as not belonging to the GST period.

The show cause notice itself records that the Rs. 1,09,42,270/- "was reduced from the total turnover", and that tax on the July 2017–March 2018 turnover was accepted. Having so recorded, the proper officer treated the same pre-GST figure as GST turnover, without any material showing that any part of it was a supply made on or after 01.07.2017.

13.2. The officer has assumed that a mismatch of turnover between GSTR – 9C and RT-1 equals a taxable supply under GST. This is a legal leap without factual foundation. A mere arithmetical difference between two returns under two different laws does not establish liability under GST.

13.3. It is obvious that GSTR - 9C is not a meaningless document, a discrepancy in it may prompt an enquiry u/s 73 of the Act but it cannot sustain a tax demand on its own. Under section 73 (1), the proper officer is legally required to establish, on the basis of material evidence, that a taxable supply took place without payment of tax, and must record reasons for such conclusion. A bare perusal of impugned order reveals that any such finding or reasoned justification is completely absent, rendering the demand unsustainable in law.

Issue – III Whether service receipts had to be shown in RT-1

14. It is fair to note here that u/s 24 (1) of VAT Act, a registered dealer is required to file returns strictly in respect of transactions involving the sales, purchases, receipts and dispatch of goods. Since, the VAT Act levies tax exclusively on sale of goods and does not extend to services. It is equally fair to note here that services fall under union taxation and are governed by chapter–V of Finance Act 1994, and are reported/declared in form ST-3. There is nothing on record or nothing has been shown to us that there is legal requirement to declare service receipts in form RT-1, whether as exempt turnover or otherwise. Furthermore, the appellant has long standing practice of reporting only goods in its VAT Returns over several years without prior departmental objection. Accordingly, omitting service turnover from form RT-1 does not, by itself, establish suppression.

14.1 It would not be out of place to mention here that the First Appellate Authority also observed to determine whether the amount was taxable or exempt lay within the domain of the Adjudicating Authority.

However, for the period from April to June 2017, jurisdiction to make such a determination is vested solely with the competent authority under VAT Act, in respect of goods or under the Finance Act, 1994, in respect of services, and not with proper officer under GST Act.

14.2 Additionally, the First Appellate Authority also proceeded erroneously that the ST-3 return covered April to September 2017. However, Notification no. 18/2017-ST dt. 22.06.2017 limited the final return under Finance Act, 1994, to the quarter ending 30.06.2017 requiring it to be filed by 15.08.2017. The appellant's filing on 15.08.2017 is wholly consistent with this mandate. The Adjudicating Authority can easily verify from the record whether July to September 2017 columns were shown as NIL. Therefore, the period printed on the pre-amended format of standard form cannot, by itself, serve as a valid ground to discard the explanation placed by the appellant.

The issue is answered accordingly.

Issue IV – Pre-GST supplies and the burden of proof

15. The GST Act came into force on 01.07.2017. GST is levied under Section 9 on "supply" as defined in Section 7 of the Act. For a transaction to be liable to GST, the supply must have occurred on or after that date. Transactions before it remains within the exclusive domain of the earlier laws. Perusal of Section 142(11)(a) and (b)of the Act reflects that: no tax is payable under the Act on goods or services to the extent tax was leviable on them under the State VAT law or Chapter V of the Finance Act, 1994.

15.1 Therefore, once it is factually established that mismatch or discrepancy relates to the pre-GST period, no GST can be demanded on those transactions even if such transactions remained undeclared or under declared under VAT or Service Tax regimes. Any resulting tax liability or inquiry lies solely with the authorities empowered under those respective acts, not under the GST regime.

15.2. In tax proceedings, the burden to establish the taxable event lies on the Revenue. A taxpayer's failure to reply does not shift it. An ex-parte order must still rest on cogent reasons and material on record, not on an inference drawn from silence.

15.3 At the same time, details such as invoice dates, the dates on which services were provided and how the turnover was allocated to Bihar are best known to the appellant. The appellant must therefore produce these records before the adjudicating authority. Likewise, if the appellant claims exemption under Entry 75 of Notification No. 12/2017-CT (Rate) for any supply made on or after 01.07.2017, it must show that the conditions of that entry are met. To this extent, the verification sought by the Respondent is reasonable.

The issue is decided accordingly.

Issue V – Sustainability of the orders below

16. Although, the ex-parte order was procedurally valid, due to appellant's repeated adjournments without filing a reply, the Adjudicating Authority was still bound to act judiciously, record cogent reasons and link the mismatch or discrepancy to a taxable supply under GST. In the case at hand, the First Appellate Authority failed to examine the figure of Rs. 1, 02, 98, 422/- which accounts for the entire mismatch and also erred in holding that service receipts are required to be disclosed in form RT-1.

16.1 Furthermore, neither the impugned order explains how a tax of Rs. 17, 59, 576/- was calculated on turnover of Rs. 1, 02, 89, 923/- as the resulting rate of 17.1%, which is entirely unknown to the GST rate schedule. Therefore, the impugned order lacks legal sustainability and is liable to be set aside.

17. We do not allow the appeal outright for the reasons that the appellant failed to file his reply before the adjudicating authority and the key evidence viz. the transaction-wise listings and the CA certificate dated 26.10.2026 has been produced for the first time before this Tribunal. No authority has examined it on earlier occasion. Besides, the Respondent also seeks its verification during course of hearing.

18. Section 113(1) of the Act empowers to refer the case back to the original Adjudicating Authority, with directions, for fresh

adjudication after taking additional evidence, if necessary. Taking note of above facts, it is apparent that this is a fit case to refer the case back to the original Adjudicating Authority for fresh adjudication. The appellant shall produce all relevant documents, accounts, invoices, records, statements, returns and CA certificates before the Adjudicating Authority. The verification must, however, be confined within the legal findings above only, so that the remand does not become a fresh roving enquiry.

Interest and penalty

19. Interest and penalty depend on the tax. They are set aside along with the demand, and will abide by the result of the fresh adjudication.

Now taking into consideration, the above discussions we order as follows:

1.The appeal is **allowed by way of remand**.

2. The Order-in-Appeal bearing Reference No. ZD100825036048M dated 29.08.2025, and the Order-in-Original bearing Reference No. ZD1012230405336 dated 29.12.2023 are **set aside**, including the tax of Rs. 17,59,576/-, interest of Rs. 17,24,192/- and penalty of Rs. 1,75,958/-.

3. The matter is **remanded under Section 113(1)** to the original adjudicating authority for detailed verification. The authority shall pass a fresh, reasoned order in accordance with law and the findings above, after hearing the appellant.

4. The appeal is disposed of in the above terms. No order as to costs.

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Date:23-11-2026 17:29:19 PM

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Date:23-11-2026 17:25:55 PM

Sanjay Kumar Mawandia

Manoj Kumar Sinha

Dated: 23.11.2026