Goods and Services Tax Appellate Tribunal

Thiruvananthapuram

Division Bench Court No. I

Appeal/56/TVP/2026

[Arising out of OIA GSTA-18/21 dated 20/01/2022 of the Joint Commissioner of State Tax (Appeals-II), Thiruvananthapuram]

Sri Sital Jewellers, Nellore, Andrapradesh **. ..... Appellant**

Versus

The Commissioner of State Taxes Keralam State, Thiruvananthapuram **……..Respondent**

for Appellant
CA Unnikrishnan M

for Respondent
Mansur MI, AR

CORAM: Hon'ble Shri Subramanya Rayaprol, Vice President

Hon'ble Shri Ramamoorthi Sriram, Member (Technical)

……

FINAL ORDER NO. 24/TVP/KERALAM/2026

Date of Hearing: 25-09-2026
Date of Order: 20-11-2026

Order per: Shri Ramamoorthi Sriram, Member (Technical)

The present appeals are directed against OIA GSTA-18/21 dated 20/01/2022 of the Joint Commissioner of State Tax (Appeals-II), Thiruvananthapuram

1 Question of law involved

1.1 Whether SGST officers of one state (Keralam) can exercise jurisdiction over an asseessee registered in a different state (Andhra Pradesh) in respect of

transactions purported to have been undertaken in their state (Keralam) without issuing a Temp Id ?

1.2 Can proceedings under section 130(1) of the CGST / KGST Act be launched against a person without specifying the particular clause of section 130(1) which the person is alleged to have contravened?

2 Brief Facts of the Case

2.1 M/s. Sri Sital Jewellers (GSTIN 37ACMPD6247L1Z7), is a proprietary concern of Sri Dilip Kumar, having its principal place of business at 13/35-5, Sri Rajendra Complex, Mandapala Street, Nellore, Andhra Pradesh – 524001. The appellant is engaged in the business of manufacture and sale of gold jewellery.

2.2 In the ordinary course of business, the appellant used to send gold jewellery samples through authorized sales representatives for display before prospective customers / jewellers and for canvassing orders.

2.3 In November 2020, the appellant authorized Sri Sheetal Jain, its sales representative, to travel to Kerala for canvassing orders from prospective jewellers. Authority letters were issued by the appellant for carrying sample gold ornaments for the said purpose.

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2.4 On 27.11.2020, officers of Mobile Squad No. VI, State GST Department, Nedumangad, intercepted Sri Sheetal Jain and Sri Pratap Ram near East Fort, Thiruvananthapuram and found gold ornaments in their possession. The Department recorded that the persons were carrying 2270.13 grams of gold ornaments including stone weight. After deducting 30% towards stone weight in respect of specified items, the Department arrived at net gold weight of 1606.476 grams and estimated the value of the goods at Rs. 73,01,434/-.

2.5 The proper officer issued show cause notice dated 01.12.2020 under Section 130

of the CGST/KGST Acts, alleging that the goods were transported without prescribed documents and with intent to evade payment of tax. The notice proposed tax of Rs. 2,19,044/-, penalty of Rs. 2,19,044/-, and fine in lieu of confiscation of Rs. 70,82,390/-, aggregating to Rs. 75,20,478/-.

2.6 The adjudicating authority passed Order No. SCN/108/2020-21 dated 31.12.2020, confirming confiscation under Section 130 and granting option for release on payment of tax, penalty and fine in lieu of confiscation aggregating to Rs. 75,20,478.

2.7 Appeal filed against the said adjudication order was dismissed by the Appellate authority vide the impugned order in appeal.

2.8 Aggrieved by the above order in appeal, the appellant has filed this second appeal before the Tribunal.

3 Examination of jurisdiction.

3.1 At the outset we find that the following facts are not in dispute:

a. The allegation is that the impugned goods , viz gold ornaments were supplied by M/s. Sri Sital Jewellers, 13/35-5, Sri Rajendra Complex, Mandapala Street, Nellore, 524001 GSTIN 37ACMPD6247L127 (Appellant) and the goods were intended to be supplied to different jewelleries in Thiruvananthapuram.

b. The Appellant is a proprietary concern of Sri Dilip Kumar, registered under GST only in Andhra Pradesh, dealing in gold jewellery at Nellore. <u>It has no registration in Kerala</u>. (As per written submissions of the AR)

3.2 We find that once it is established that the goods originated from Nellore (AP) and the allegation is of attempted sale in Thiruvananthapuram (Kerala) (facts not disputed by either side), the transaction in question is an interstate action (irrespective of

whether the transaction has been proved or not) and would be governed by the provisions of the IGST Act and not CGST / SGST Act.

3.4 Section 5 of the IGST Act , 2017 reads as follows:

5. Levy and collection.

(1) Subject to the provisions of sub-section (*2*), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both……..

3.5 We do not understand as to how the SGST officers of Kerala (having recorded that the goods belonged to a GSTIN recipient from outside the state) proceeded to invoke the provisions of section 130 of the KGST Act / CGST Act without any reference whatsoever to the IGST Act which is squarely applicable in the instant case.

3.4 We also find that:

a. SCN/108/2020-21 dated 1/12/2020 under section 130 of the CGST /SGST Act 2017 has been issued in the name and address of M/s.Sri Sital Jewellers, 13/35-5, Sri Rajendra Complex, Mandapala Street, Nellore, 524001 – with specific mention of GSTIN 37ACMPD6247L1Z7.

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b. OIO No. SCN/108/2020-21 Dated 31.12.2020 under section 130 of the CGST /SGST Act 2017 has been issued to M/s.Sri Sital Jewellers, 13/35-5, Sri Rajendra Complex, Mandapala Street, Nellore, 524001 with specific mention of GSTIN 37ACMPD6247L1Z7.

c. GST REG-12 Temporary Registration (GSTIN/ID: 322100002579TMP) was issued, only on 28/4/2021. enabling online filing of first appeal.

c. Order-in-Appeal No. GSTA-18/21 dated **20.01.2022** was also issued to M/s M/s.Sri Sital Jewellers, 13/35-5, Sri Rajendra Complex, Mandapala Street, Nellore, 524001 with specific mention of GSTIN 37ACMPD6247L1Z7.

3.5 We find that the before the appellate authority the appellant has raised the specific plea that

- "even assuming there is a taxable event the SCN issued by the State Tax Officer charging CGHST and Kerala State GST is without territorial jurisdiction, being an interstate sale and the proceedings if at all should have been levied IGST upon the goods.
- The provisions of the IGST Act provide that the location of the supplier(being Andhra Pradesh) in this state the place of supply (as alleged) to be Kerala will fall within Section 10(1)(a) of the IGST Act and would be treated as an inter state supply and thus the levy and quantification of CGST and Kerala SGST on the said transaction by State Tax Officer is void ab initio and liable to be set aside/quashed.
- The State Tax Officer has assumed and presumed that the authorized sales representative staying in Kerala in a local address is proof that the transaction underlying the impugned order is a intra state supply for which levy of tax and penalty is imposable without going into why the provisions of Section 10(1)(a) are inapplicable.
- The ratio of Circular 10/10/2017 is clearly applicable to the underlying transaction and the levy of CGST and Kerala SGST under Section 130 is thus illegal, arbitrary and without jurisdiction.

- The appellant duly accounts for all supplied effected by him and wherever there is a sale of gold ornaments resulting in Kerala, issues an IGST invoice after the delivery of the goods as envisaged by the circular 10/10/2017 charging IGST applicable with place of supply as Kerala. Sample copy of IGST invoice being Invoice 001/2020/21 dated 14.10.2021 issued to M/s. Aishwarya Fashion Jewellery, Kallikadu, Trivandrum GSTIN 7ZBUGPS2774G|ZH is enclosed.

3.6 In response to the above the Appellate Authority in the impugned order has recorded as follows:

IGST shall be levied on all interstate suppliers of goods or services or both subject to provisions laid down in section 7 and section 10 of the IGST Act 2017.

The location of the supplier and the place of supply must be in two different states to qualify an inter state supply. As per section 10(1)(a) of IGST Act, where the supply involves movement of goods, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient. These two conditions should be satisfied with the support of statutory documents prescribed by the Act to qualify an interstate supply.

In the impugned case no documents generated as per the statutory provisions, accompanied the goods at the time of interception or afterwards. In the absence of statutory documents the officer was not in a position to ascertain whether the supply is inter state or not. The officer, after conducting enquiry has ascertained that the transaction come under the category of intra state supply. So the contention of the appellant as to lack of jurisdiction on this. ground is devoid of merit.

3.7 We find that the appellate authority has recorded that:

a. No documents as per statutory provisions accompanied the goods at the time of interception.

b. In the absence of statutory documents the officer was not in a position to ascertain whether the supply is interstate or not.

c. The officer, after conducting enquiry has ascertained that the transaction come under the category of intra state supply.

d. So the contention of the appellant as to lack of jurisdiction on this. ground is devoid of merit.

3.8 We find that the above said extracts from the OIA speak for themselves. It is clear that the officer had no clue as to the nature of the transaction (interstate or intrastate) and in the absence of any documentary evidence, by default, assumed this to be an intrastate transaction and arrogated to himself the power to act on the case, without providing the slightest legal basis for the above course of action.

3.9. It is not clear as to what is the "enquiry" he had subsequently conducted on the basis of which he concluded that the transaction came under the category of intrastate supply. There is no mention in any of the documents with respect to the above.

3.10 Without prejudice to the above finding, even assuming this was found to be intrastate transaction, there is no explanation for the as to why in the show cause notice, order in original and order in appeal the person charged with the offence is "M/s.Sri Sital Jewellers, 13/35-5, Sri Rajendra Complex, Mandapala Street, Nellore, 524001 – with GSTIN 37ACMPD6247L1Z7." over whom the Kerala SGST officials clearly had no jurisdiction.

3.11 We find therefore find that on the territorial jurisdiction issue alone the case is hit by the principle of "coram non judice" and the entire proceedings are liable to be quashed and held to be non est and void ab initio .

3.12 We find support for this finding in the judgement of the honorable Supreme Court of India in the case of: **The State Of West Bengal vs Jai Hind P.Ltd on 6 February, 2026 (2026 INSC 132)** wherein the Court observed as follows:

"*9. In the instant case, as the Revenue Officer did not have the jurisdiction to review the earlier vesting determination, the 2008 review order strikes at the very root of the matter and is a non-curable defect. Importantly, "competence of a Court to try a case goes to the very root of the jurisdiction, and where it is lacking, it is a case of inherent lack of jurisdiction", as was held in Hira Lal Patni v. Kali Nath. A decree or order passed by a Court which lacks inherent jurisdiction in passing such an order or decree is non-est and void ab initio, as was held by this Court in the case of Balvant N. Viswamitra v. Yadav Sadashiv Mule. In the said case, a three-judge Bench of this Court held that: "9…The main question which arises for our consideration is whether the decree passed by the trial court can be said to be "null" and "void". In our opinion, the law on the point is well settled. The distinction between a decree which is void and a decree which is wrong, incorrect, irregular or not in accordance with law cannot be overlooked or ignored. Where a court lacks inherent jurisdiction in passing a decree or making an order, a decree or order passed by such court would be without jurisdiction, non est and void ab initio. A defect of jurisdiction of the court goes to the root of the matter and strikes at the very authority of the court to pass a decree or make an order. Such defect has always been treated as basic and fundamental and a decree or order passed by a court or an authority having no jurisdiction is a nullity. Validity of such decree or order can be challenged at any stage, even in execution or collateral proceedings."*

3.13 We find that in this connection the learned AR has submitted as follows:

Points raised earlier but not now urged (territorial jurisdiction and IGST; constitutional validity under K.P. Abdulla; the same officer investigating and adjudicating) are not grounds of appeal. The Respondent objects to their being raised without leave.

3.14 As such we find that Rule 31 of the GSTAT Procedure Rules read as follows:

GSTAT Appellate (Tribunal) Procedure Rules , 2025.

Rule 31 The appellant shall not, except by leave of the Appellate Tribunal, urge or be heard in support of any grounds not set forth in the Form of appeal, but the Appellate Tribunal, in deciding the appeal, shall not be confined to the grounds set forth in the Form of appeal or those taken by leave of the Appellate Tribunal under these rules:

Provided that the Appellate Tribunal shall not rest its decision on any other grounds unless the party who may be affected thereby has had a sufficient opportunity of being heard on that ground.

3.15 Therefore we find that in terms of the above , the Tribunal is empowered to decide an appeal on grounds which are not set forth in the form of appeal / taken by leave of the appeal the party, provided the party affected (the Revenue) in this case has had a sufficient opportunity of being heard on that ground.

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3.16 After having provided sufficient opportunity to the Revenue to make their submissions case on this ground we find that no credible explanation has been offered to the question of -quo warranto - under what authority / provision of law the SGST officials of Kerala took it upon themselves to conduct these proceedings against a tax payer who was clearly beyond their jurisdiction.

3.17 We find that for these reasons alone , the entire proceedings are liable to be quashed and declared as non est and void ab initio.

4.1 Yet another fundamental ground raised by the appellant is that in the instant case,

Section 130(1) was invoked without identifying or satisfying the specific statutory limb. The Impugned Order-in-Appeal is bad in law in so far as it sustains confiscation under Section 130(1) of the CGST/KGST Acts without identifying the specific clause of Section 130(1) attracted in the facts of the case and without recording satisfaction of the ingredients of such clause. Section 130(1) contains five distinct statutory eventualities - clauses (i) to (v) - and the authorities below have not recorded whether the case falls under any of them, nor have the facts been tested against the ingredients of any such clause. A general allegation of suspicious movement or alleged absence of prescribed documents cannot substitute the statutory satisfaction required for confiscation. For this reason, the impugned order is liable to be set aside.

4.2 We find that on this ground, the contentions of Contentions of the Revenue are as follows:

a. The notice's language tracks clauses (i), (ii) and (iv). Where the power exists, failure to cite the sub-clause does not vitiate its exercise: N. Mani v. Sangeetha Theatres, (2004) 12 SCC 278.

b. The Appellant addressed "intent to evade" in its reply and its own Ground 2 is framed "even assuming clause (i) or clause (iv)". No prejudice is alleged.

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The facts were tested against the ingredients of clauses and they satisfy clause (iv), supported by clause (ii). Clause (i) is not pressed

4.3 a. We find that section 130(1) of the CGST Act reads as follows:

130. Confiscation of goods or conveyances and levy of penalty.

(1) 1[Where] any person—

(i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(ii) does not account for any goods on which he is liable to pay tax under this Act; or

(iii) supplies any goods liable to tax under this Act without having applied for registration; or

(iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.

b. We find that section 130(1) of the CGST Act deals with five distinct kinds of offences which cannot be lumped /clubbed together. Principles of natural justice demand that the taxpayer is put to notice with respect to the specific offence that he is being charged with so that he is given a fair opportunity to defend his case. We find that in the instant case no specific clause of section 130 (1) has been cited , leaving the appellant totally non plussed as to what he is being accused of.

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c. The Revenue's contention that the notice's language tracks clauses (i), (ii) and (iv) is not acceptable. A show cause notice is serious business and ought to lay down clearly, specifically and categorically the charges against the person who is being proceeded against and this new found business of "tracking of clauses" without quoting specific statutory provisions is not based on any legal principle and is destructive of all known principles of natural justice.

d. The Revenue has sought to contend that "Where the power exists, failure to cite the sub-clause does not vitiate its exercise" and has sought support from the N. Mani

v. Sangeetha Theatres, (2004) 12 SCC 278.

e. We have perused the above said judgement of the honorable Supreme Court. We reproduce herein verbatim the operative portion of the judgement :

It is well-settled that if an authority has a power under the law merely because while exercising that power the source of power is not specifically referred to or a reference is made to a wrong provision of law, that by itself does not vitiate the exercise of power so long as the power does exist and can be traced to a source available in law.

f. In our view, the right interpretation of the above decision is that where a particular power exists, exercise of the power cannot be challenged on the mere ground of non-citing of the source of power. This is clearly applicable where there is no ambiguity about the source of power and the purpose for which it is being exercised. However, this cannot be construed to mean that where multiple / ambiguous interpretations are possible, the authority can still get away with non-citing of the legal provisions, which would clarify the scope of action being taken.

g. .For example if a person is charged with penalty for failure to furnish information return, non-citing of the relevant section 123 may not be fatal to the proceedings as it is the only section dealing with the offence and there is no ambiguity. However if a person is charged with penalty under section 122(1) , any proceeding which does not mention under which of the 21 clauses of section 122(1) he is being charged, is liable to be struck down as a gross violation of natural justice. No amount of “tracking of clauses” without citing specific clauses can help sustain the proceeding.

h. In view of the above we find that the ratio of the judgement in the case of N Mani (supra) is not applicable in the facts and circumstances the case before us.

4.4 a. We also find that the Revenue has further sought to argue that:

- The Appellant addressed "intent to evade" in its reply

- its own Ground 2 is framed "even assuming clause (i) or clause (iv)".
- No prejudice is alleged.

b. To say the least, we are truly astonished at these contentions of the Revenue which seem to suggest that merely because the appellant has addressed “intent to evade” or framed his reply based on certain assumptions, he is deemed to have waived his right to be informed of the specific charges against him and that no prejudice is caused. We find that the above said contentions are not supported by any legal principles and are therefore not sustainable.

4.5 a .The Revenue goes on to contend that the facts were tested against the ingredients of clauses and they satisfy clause (iv), supported by clause (ii) and has has been gracious enough to submit that Clause (i) is not pressed

b. We find that one of the fundamental principles of jurisprudence is that any show cause notice / adjudication order has to stand on its own merit and cannot be improved upon / embellished through submissions made by the Revenue at the second appellate stage before the Tribunal. We find support for our contention in the judgement dated 19/8/26 of the honourable Supreme Court of India in the case of **M/s G.R. Infra Projects Limited Ratlam Versus The State of Madhya Pradesh & Ors. 2026 (8) TMI 1497 – SC -** wherein the Court held as follows:

“4. Learned Counsel appearing for the appellant submits that the SCN is beyond the time of three years provided under Section 73 for determination of tax inter alia short paid, for any reason other than fraud, willful misstatement or suppression of facts. The learned Government Advocate, however, attempts to take us through the counter affidavit in which according to him the allegations of fraud and suppression of facts have been elaborated, justifying the proceedings under Section 74 and not under Section 73.

5. We refused to look at the counter affidavit *on the trite principle that when an authority has issued a notice or an order, the requirements to make the notice or order valid should be contained in such notice or order and cannot be supplanted by*

a counter affidavit in Court, where the notice or order is alleged to be invalid for reason to non-application of mind, the requirements having not met and so on and so forth".

b. We find that the ratio of the above judgement case is squarely applicable to the instant case and where it is seen that the show cause notice is inherently flawed for not putting the appellant to notice with respect to the specific charges against them, the same cannot be permitted to be improved / polished / embellished vide the submissions of the Revenue at the second appellate stage.

c. . In view of the above , we find that in the absence of specific charges against the appellant in the show cause notice , the proceedings are in violation of the fundamental principles of natural justice and are ab initio void.

d. We find further support for our finding in the decision of the honorable Supreme Court in the case of **AMRIT FOODS Versus COMMISSIONER OF CENTRAL EXCISE, UP [2005 (10) TMI 96 - Supreme Court]** wherein the Court held as follows:

"5. The Revenue has preferred an appeal from the order of the Tribunal setting aside the imposition of penalty under Rule 173Q of the Central Excise Rules, 1944. The Tribunal has set aside the order of the Commissioner on the ground that neither the show cause notice nor the order of the Commissioner specified which particular clause of Rule 173Q had been allegedly contravened by the appellant. We are of the view that the finding of the Tribunal is correct. Rule 173Q contains six clauses the contents of which are not same. It was, therefore, necessary for the assessee to be put on notice as to the exact nature of contravention for which the assessee was liable under the provisions of the 173Q. This not having been done the Tribunal's finding cannot be faulted. The appeal is, accordingly, dismissed with no order as to costs."

5. To sum up, we find that the entire proceedings in the instant case are

(i) without jurisdiction

(ii) conducted in violation of the fundamental principles of natural justice.

6. Once we have made a finding that this case does not pass the minimum threshold tests of jurisdiction and natural justice, we find that any further examination of the other grounds (merits / procedure) would be otiose and an exercise in futility.

7.In view of the above findings, we answer both the questions of law in para 1.1 and 1.2 in the negative and hold that:

a. SGST officers of one state (Keralam) could not have exercised jurisdiction over a Taxpayer registered in a different state (Andhra Pradesh) without issuing a Temp Id in respect of transactions purported to have been undertaken in their state (Keralam).

b. Proceedings under section 130(1) of the CGST / KGST Act cannot be launched against a person without specifying the particular clause of section 130(1) which the person is alleged to have contravened.

8. In view of the findings as above, the following order is passed:

The appeal is allowed and the order in appeal is set aside with consequential relief

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(Order pronounced in open court)

Rayaprol Subramanya Viswanatha

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Subramanya Rayaprol
Vice-President

Ramamoorthi Sriram

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Date: 2026.11.20 23:41:26 +05'30'

Ramamoorthi Sriram
Member (Technical)

Date: 20-11-2026