HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 6677/2024
URN: CW / 13862U / 2024

M/s Sam Marketing, Through Its Proprietor Shri Anmol Bhargava S/o Shri Chetan Bhargava, Aged About 31 Years, R/o Plot No. 5, Raghu Kamal Niwas, Mi Road, Near All India Radio, Jaipur, Rajasthan.

----Petitioner

Versus

1. The Assistant Commissioner, State Good And Service Tax Department, Rajasthan, Z One -Jaipur- I, Circle - Circle - I, Jaipur I, Ward - Circle -I, Jaipur I, - Ward -Ii, Kar Bhawan, Jhalanadungari, Jaipur.
2. State Of Rajasthan, Through Its Additional Chief Secretary, Department Of Finance Secretariat, Jaipur, Rajasthan.
3. Appellate Authority -I, Room No. 116, Kar Bhawan, Ambedkar Circle, Jaipur, Rajasthan.
4. Union Of India, Through Its Finance Secretary, Ministry Of Finance, Government Of India, New Delhi.

----Respondents

For Petitioner(s)	:	Mr. D.P. Sharma
For Respondent(s)	:	Ms. Mahi Yadav, AAG with Ms. Chelsi Agarwal, Adv. for State

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HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

Order

21/07/2026

1. The present Petition has been filed against the impugned order dated 20.03.2024 passed by the Appellate Authority, Kar Bhawan, Jaipur and the order dated 25.02.2023 passed by the Office of Assistant Commissioner, Jaipur I and also against the notification no. 53/2023 dated 02.11.2023.

2. At the very outset, we do not deem it necessary to give narrative of the facts as pleaded in the petition, since given the nature of order, we propose to pass, we need not traverse through the same.

3. Suffice to observe that the main thrust in the petition, and so are the arguments before us, is that once the entire tax liability has been recovered, the Appellate Authority under Section 107 falls in grave error in dismissing the appeal on the technical plea that, since 20% of the outstanding tax liability has not been deposited by the petitioner, therefore, he is not entitled to be heard on merits.

4. To that limited extent, reference may be held to the specific averments contained in Para 9 of the petition and the corresponding response given to the same. For ready reference both are produced hereinbelow:-

> *"9. That the respondent department has recovered the whole amount by debiting the amount in the head of outstanding demand ID on 11.07.2023 (Rs.1,08,436/-), 18-08-2023 (Rs. 56,766/-) and 23.12.2023 (rupees 2,66,654/-), total amount 6,94,428/-, which was the disputed amount from the electronic credit ledger which is evident from electronic credit lodger for the period of 01-07-2023 to 23-12-2023. A downloaded copy of the electronic credit ledger for the period of 01-07-2023 to 23-12-23 is enclosed herewith and marked as Annexure-8."*

Corresponding response in reply filed by the respondents….

> *"55. That the contents of Para (9) are a matter of record. However, it is submitted that the Petitioner failed to file a valid return within the then-prescribed 30-day window, the demand became final. Accordingly, the department proceeded with the recovery of the outstanding demand by debiting the Electronic Credit Ledger as per the procedure prescribed under the law."*

5. A cumulative reading of the above leaves no manner of doubt that there is a candid admission by the respondents that the entire tax liability has indeed been recovered from the petitioner.

6. In that view of the matter, the Appellate Authority, therefore, seems to have been under the erroneous impression that, since the petitioner had not furnished proof of deposit of 20%, he was not entitled to be heard in the appeal on merits. In the premises, the

impugned order is set aside. The matter is remanded back to the learned Appellate Authority to decide the appeal on merits without insisting on payment of the 20% tax liability, since the entire demand already stands recovered.

7. With the aforesaid observations, the petition stands disposed of.

8. In the parting, we would like to observe that the amount which has been recovered from the petitioner shall be subject to the outcome of the appeal, and in case he succeeds, the same shall be refunded in accordance with law. As a matter of the abandoned question, we may observe that, since 100% of the demand has already been recovered, insisting on another 20% would amount to payment of 120%, which is beyond the scope of the powers under Section 107 of the Act, *ibid*.

(ASHUTOSH KUMAR),J **(ARUN MONGA),J**

28/Mohita/Tanisha