Barjinder Singh Kohli vs The Assistant Commissioner of Revenue & Ors.

Appeal – Sections 107(1), 107(4) & 107(6) of CGST Act, 2017 / WBGST Act, 2017 – requirement of pre-deposit when the order involves only interest and penalty without tax demand.

Date of Order: November 3, 2025
Case Law No: GIB -CHC-2025-02
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Facts:
The petitioner challenged an appellate order dated 15.05.2025 passed under Section 107 dismissing the appeal against an adjudication order under Section 74 dated 07.01.2025. The appeal was filed on 26.04.2025, beyond three months but within the condonable period of one month under Section 107(4). The appellate authority rejected the appeal on the grounds of delay and non-payment of pre-deposit though the adjudication order determined only interest and penalty and no tax demand.

Court Decision:
The Court held that under Section 107(6) as it stood at the time of filing the appeal, pre-deposit was required only in respect of the amount of tax in dispute. Since the impugned order involved only penalty and interest and there was no tax demand, there was no statutory requirement of pre-deposit. The Court observed that the proviso mandating pre-deposit even for penalty-only orders was inserted by the Finance Act, 2025 with effect from 01.10.2025 and was not applicable to the present case.

The Court found that the appellate authority erred in rejecting the appeal for non-payment of pre-deposit. The matter was remanded to the Appellate Authority to consider the petitioner's application for condonation of delay. If the delay is condoned, the appellate authority shall hear the appeal on merits without insisting on pre-deposit.

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