The Hongkong and Shanghai Banking Corporation Ltd. vs. State of Maharashtra through the Secretary to the Government Revenue Dept. & Ors.

Whether the GST Appellate Tribunal, constituted under the CGST Act, 2017, has jurisdiction to pass interim orders (including stay of recovery) pending disposal of an appeal before it.

Date of Order: February 20, 2026
Case Law No: GIB-BHC-2026-71-DB
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

BACKGROUND

An Order-in-Original dated 18th December 2023 confirmed a tax liability against the Petitioner. The Petitioner's appeal before the Appellate Authority was rejected by an Order-in-Appeal dated 12th June 2024. The Petitioner then filed an appeal before the GST Tribunal on 5th February 2026 against the Order-in-Appeal.

FACTS

The Petitioner received demand intimations by e-mails dated 3rd February 2026 and 6th February 2026. It informed the Respondent that the demand amount had been deposited/adjusted through Form GST DRC-03A and that the appeal was pending before the Tribunal. Despite this, a Recovery Notice dated 6th February 2026 was issued, and coercive steps were sought to be taken. The Petitioner approached the Bombay High Court under Article 226, seeking quashing of the Intimation and Recovery Notices and interim stay, on the ground that the Tribunal has no express power under the CGST Act/Rules to grant interim stay of recovery, and hence no efficacious alternative remedy existed.

COURT OBSERVATIONS (Verbatim)

On the scope of Section 113:

"Considering the nature of the powers conferred under sub-section (1) of Section 113 to pass such orders 'as it thinks fit'... it cannot be inferred, that although the Tribunal is vested with the jurisdiction to pass substantive final orders on the Appeal... it would nonetheless lack jurisdiction to pass appropriate interim orders. The power to grant interim relief, including protection against recovery pending the Appeal, is inherent and incidental to the appellate jurisdiction conferred upon the Tribunal."

On rejecting the Petitioner's proposition:

"Also, on first principles, we are unable to accept a proposition that although the Appellate Tribunal is a statutory forum created under the scheme of Sections 111, 112 and 113 of the CGST Act, 2017, it would nevertheless be powerless to grant interim relief. Such an interpretation would render the appellate remedy illusory and defeat the legislative intent..."

On the High Court not being a substitute forum:

"This can never be the legislative intent, that the High Court should function as a forum for grant of interim relief, in matters squarely falling within the appellate jurisdiction of the Tribunal. This is inconceivable."

On the GSTAT (Procedure) Rules, 2025 (Rules 10 & 29) supporting inherent power to grant interim relief — referred to as making "the position crystal clear."

Reliance placed on *Income Tax Officer, Cannanore vs. M. K. Mohammed Kunhi*, 1968 SCC OnLine SC 71, where the Supreme Court held (in the context of Section 254 of the Income Tax Act, 1961, a provision "quite similar" to Section 113 of the CGST Act):

"It is a firmly established rule that an express grant of statutory power carries with it by necessary implication the authority to use all reasonable means to make such grant effective... The powers which have been conferred by Section 254 on the Appellate Tribunal with widest possible amplitude must carry with them by necessary implication all powers and duties incidental and necessary to make the exercise of those powers fully effective."

CASE LAW REFERRED

Case	Citation
Income Tax Officer, Cannanore vs. M. K. Mohammed Kunhi	1968 SCC OnLine SC 71

FINAL VERDICT

The Court held that the GST Appellate Tribunal does have inherent jurisdiction to grant interim relief/stay of recovery pending appeal, and directed the Petitioner to move an interim application before the Tribunal within two weeks. As limited interim protection, the Recovery Notice dated 6th February 2026 was directed not to be acted upon until the Tribunal decides the interim application. Petition disposed of with no order as to costs; merits of the underlying dispute kept open.