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Division Bench Court No. Court I

APL/26/DEL/2026

VISHAL CHAUDHARY ....**Appellant**

Versus

DIRECTOR, 32 BABAR ROAD BENGALI MARKET NEW DELHI DLCEN 110001 , BANGLA FOODS PRIVATE LTD. ....**Respondent**

Counsel for Appellant **Counsel for Respondent**

Hon'ble Sh. Sanjay Kumar Aggarwal, Member(Judicial)
Hon'ble Sh. Rajiv Kapoor, Member (Technical)

ORDER

1. This appeal has been filed against Order-in-Appeal No. 1038/JC/Central Tax/Appeal-II/Delhi/2025-26 dated 03.10.2025, arising out of Order-in-Original No. ZD0701250364530 dated 27.01.2025, confirming a demand of Rs. 1,36,634/- under Section 74(1) of the CGST Act, 2017 on account of non-payment of IGST under RCM in respect of OIDAR services alleged to have been received by the Respondent from M/s Facebook Ireland Ltd.
2. The Grounds of Appeal, as urged by the Appellant, read as under:

> *"10.1 On perusal of the impugned OIA dated 03.10.2025, it is evident that the Appellate Authority has erred by dropping the entire demand of non-payment of tax under RCM amounting to Rs. 1,36,634/- along with applicable interest and penalty.*
>
> *10.2 The Appellate authority has dropped the demand merely on the basis of taxpayer's submission that during the FY 2017-18, they have not availed any services from M/s Facebook Ireland Limited and also submitted their records and financial statements for the relevant financial year.*
>
> *10.3 The Appellate Authority has failed to carry out any specific or detailed verification, particularly by examining the taxpayer's ledger accounts in respect of M/s Facebook Ireland Limited,*

bank statements, and other corroborative records, to ascertain whether or not the taxpayer had actually received taxable services from M/s Facebook Ireland Limited. This omission is significant in light of the contrary information received from the Directorate General of GST Intelligence (DGGI), Headquarters, New Delhi, which clearly indicated that the taxpayer had availed services from M/s Facebook Ireland Limited during the relevant period.

10.4 Instead of initiating an independent inquiry or verification exercise based on the said data provided by the DGGI, the Appellate Authority appears to have merely relied upon the submissions made by the taxpayer, without testing the veracity or completeness of the same. Such reliance on unverified submissions, especially in the face of concrete third-party data received from a competent investigating agency, demonstrates a clear lapse in the adjudication process.

10.5 The principle of adjudication under GST law mandates that any defence or submission by a noticee must be duly verified and substantiated through objective documentary evidence. In the present case, the taxpayer's assertion that it did not receive any taxable services OIDAR should have been cross-checked against primary documents such as expense ledgers, inward remittance details, and invoices, bank account statement, pertaining to the relevant period. The absence of such verification vitiates the adjudication process and renders the findings of the Appellate Authority erroneous and unsustainable in law.

10.6 In view of the above, it is amply clear that the Appellate Authority has erred in dropping the demand of Rs. 1,36,634/- along with applicable interest and penalty, without examining aspects."

3. It is thus evident that the entire dispute centres on the taxability of OIDAR services received from a supplier located outside India.
4. During hearing Ld. Authorized representative of the appellant and the Ld. Counsel for the respondent submitted that the matter involves issue relating to supply of OIDAR Services, and thus the jurisdiction lies with Hon'ble Principal Bench.

5. Section 109 of the CGST Act, 2017 constitutes and defines the jurisdiction and powers of the various Benches of the GST Appellate Tribunal. The relevant sub-sections of Section 109, as they are material to the present order, read as follows:

5) The Principal Bench and the State Bench shall hear appeals against the orders passed by the Appellate Authority or the Revisional Authority:

Provided *that the cases in which any one of the issues involved relates to the place of supply, shall be heard only by the Principal Bench.*

[Provided *further that the matters referred to in sub-section (2) of section 171 shall be examined or adjudicated only by the Principal Bench:*

Provided *also that the Government may, on the recommendations of the Council, notify other cases or class of cases which shall be heard only by the Principal Bench.]*

6. In exercise of the powers conferred by the third proviso to sub-section (5) of section 109of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Government, on the recommendations of the Council, issued Notification no. S.O. 4219(E). dated the 17th of September 2025 vide which the following cases or class of cases were notified, in respect of which an appeal shall be heard only by the Principal Bench, namely: —

Any case or class of cases, —

(a) pending before two or more State Benches where the President is satisfied that an identical question of law is involved;

(b) where one or more issues involved therein covered under section 14 or section 14A of the Integrated Goods and Services Tax Act, 2017(13 of 2017); and

(c) where one or more issues involved therein is covered under section 20 of the Central Goods and Services Tax Act, 2017(12 of 2017).

7. Section 14of the Integrated Goods and Services Tax Act, 2017 deals with special provisions for payment of tax by a supplier of online information and database access or retrieval (OIDAR) services.

8. Therefore, under Section 109(5) of the CGST Act, 2017 read with section 14 of IGST Act 2017 read with notification no. S.O. 4219(E). dated the 17th of September 2025 (supra), appeals involving OIDAR service lie exclusively before the Principal Bench of the GST Appellate Tribunal, New Delhi. This Bench, being a State Bench, has no jurisdiction to entertain the instant appeal.

ORDER

9. Accordingly, the Registry of this bench is directed to transfer the instant appeal, along with the complete record, to the Principal Bench, GST Appellate Tribunal, New Delhi, for disposal in accordance with law. The Registry shall transmit the file forthwith. The parties shall appear before the Ld. Registrar, Principal Bench, GST Appellate Tribunal, New Delhi on 21/08/2026.

Digitally signed by SANJAY KUMAR AGGARWAL
Date:14-08-2026 18:32:28 PM

(Sanjay Kumar Aggarwal)

Digitally signed by RAJIV KAPOOR
Date:14-08-2026 18:38:55 PM

(Rajiv Kapoor)

Dated: 14.08.2026