



Paid Once, Paid Enough: How Ashirwad Food Industries and Manoranjan Dash Reset the Pre-Deposit Test for Appeals before the GSTAT in Non-Penalty Matters

Introduction

An assessee who paid ten per cent of the disputed tax to file the first appeal, and whose demand the Commissioner (Appeals) then cut to a fraction, has been met at the GSTAT registry with the objection that Section 112(8)(b) requires a further ten per cent of the surviving tax, “in addition to” the earlier deposit. That was the defect the Registry noted in *Manoranjan Dash*.

Two recent rulings answer that objection. In *M/s Ashirwad Food Industries v. Union of India* (W.P.(T) No. 469 of 2026, order dated 09.02.2026; 2026:JHHC:3326-DB; reported at the Jharkhand High Court), the Court agreed that, with ₹23.85 lakh already deposited at the first appellate stage against a surviving demand of about ₹40 lakh, there was no question of insisting on any fresh pre-deposit for the Tribunal appeal. **The GST Appellate Tribunal, Cuttack Bench, applied that ruling in *Manoranjan Dash v. Commissioner, Odisha* (INTL.APPL/2/CTT/2026 in APL/10/2026) on 08.07.2026 and, on 21.09.2026, declined to recall its finding when the Department applied for reconsideration.**

This article explains what the two rulings decide, the reasoning that supports them, and the practical limits of the principle they establish. **The central proposition is straightforward: a pre-deposit forms part of the tax in dispute and is not a fresh levy at every stage. Where the sum already deposited under Section 107(6) equals or exceeds the amount required under Section 112(8)(b) on the surviving demand, the condition for maintainability of the Tribunal appeal stands satisfied.**

The Text: Two Pre-Deposits and One Troublesome Phrase

Section 107(6) bars a first appeal unless the appellant has paid (a) in full, such part of the tax, interest, fine, fee and penalty arising from the impugned order as he admits, and (b) ten per cent of the remaining tax in dispute, subject to a maximum of ₹20 crore. Section 112(8) imposes a parallel condition for the Tribunal appeal. Clause (b), as the Tribunal set it out in *Manoranjan Dash*, requires:

“a sum equal to ten per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of section 107, arising from the said order, subject to a maximum of twenty crore rupees, in relation to which the appeal has been filed.”

Both sections carry a proviso for orders demanding penalty without any tax: ten per cent of the penalty, which at the Tribunal stage is again “in addition to” the amount payable under the proviso to Section 107(6).



Where the demand survives the first appeal intact, the phrase “in addition to” operates in its ordinary sense. The difficulty arises when the Commissioner (Appeal) substantially reduces the demand, so that the amount already deposited is equal to or greater than the ten per cent now required on the surviving tax. **The statute is silent on this situation; the two rulings fill that silence.**

Ashirwad Food Industries: The Jharkhand High Court’s Direction
(Case Law No: GIB-JHC-2026-31)

The Order-in-Original raised a demand of about ₹2.38 crore, and the petitioner deposited ₹23,85,182 to file the first appeal. The Commissioner (Appeals), by order dated 30.06.2025, scaled the demand down to about ₹40 lakh. Counsel submitted that a pre-deposit at twenty per cent of the reduced demand (in effect, ten per cent under each provision) would be around ₹8 lakh, so the Tribunal should not insist on more. The Division Bench found substance in this and agreed that there was “no question of making any further pre-deposit”. The Tribunal was to accept the appeal without a fresh pre-deposit.

The passages the Tribunal later relied on record the figures and the Court’s agreement, without a detailed construction of “in addition to”. The wider principle is largely the Tribunal’s work in *Manoranjan Dash*.

Manoranjan Dash: From Admission Order to Reasoned Ruling
(Case Law No: GIB-GSTAT-2026-114)

The disputed tax was ₹11,34,474. The assessee paid ₹1,13,448 under Section 107(6), and the Appellate Authority reduced the disputed tax to ₹1,02,012, less than the amount already deposited. The Registry noted non-payment of the Section 112(8)(b) deposit. On 08.07.2026, relying on *Ashirwad*, the Tribunal held that no further pre-deposit was required and admitted the appeal once the court fee was paid in full. The Department had not been notified of that hearing.

The Department applied for recall. Its main grievance was that a contentious point had been decided without hearing it. It also asked the Tribunal to reconsider the words “in addition to” and to clarify that no general proposition had been laid down, relying on *Abhijit Nayak v. Commissioner of (CT & GST)* (Orissa High Court, W.P.(C) No. 32643 of 2025, order dated 27.11.2025) and *CIT v. Calcutta Knitwears* (2014) 362 ITR 673 (SC) on strict construction. The Cuttack Bench (Suchismita Misra, JM, and Ranjan Kumar Sahoo, TM) disposed of the application on 21.09.2026, without costs, reasoning in paragraphs 8 to 13 that:

1. The pre-deposit is not payment towards a separate liability. It is a specified portion of the disputed tax itself (para 10).
2. After the first appellate reduction, the surviving demand is the tax in dispute for the Tribunal appeal (para 9).



3. If the amount already deposited equals or exceeds the aggregate percentage of that surviving tax, a further ten per cent would be mechanical and would give an anomalous, unworkable result (paras 10 and 11).
4. The facts were identical to *Ashirwad*, whose reasoning on the same central legislation is persuasive; *Abhijit Nayak* and *Calcutta Knitweaves* were distinguished on their facts (paras 8, 12 and 13).

The Tribunal decided only the pre-deposit question, without entering the merits.

Where the Principle Applies, and Where It Does Not

Situation	Position	Basis
A. Demand substantially reduced in first appeal; amount already deposited equals or exceeds the requirement on the surviving demand	No further pre-deposit. The Section 107(6) deposit counts towards the Tribunal-stage requirement.	<i>Ashirwad Food Industries; Manoranjan Dash</i> (08.07.2026 and 21.09.2026)
B. Demand survives the first appeal intact	“In addition to” operates in its ordinary sense: a further ten per cent of the tax in dispute is payable under Section 112(8)(b).	<i>Manoranjan Dash</i> , para 10 (provisions operate in a straightforward manner)
C. Entire disputed tax paid under protest, then appellate remedy pursued	Used by the Tribunal to illustrate that literal insistence on a further deposit would be anomalous. In our view the same logic applies; it is an illustration, not a finding on facts.	<i>Manoranjan Dash</i> , para 10

Neither ruling covers a reduced demand where the earlier deposit still falls short of the aggregate requirement. In our view, their logic points to crediting what has been paid and requiring only the shortfall, but that is undecided and should be argued.

Conclusion

A pre-deposit functions as security for the tax in dispute. When the quantum of the dispute shrinks, the security required shrinks with it. **Money already paid into the Government’s hands counts towards the reduced requirement. The phrase “in addition to” performs useful work where the demand survives intact: it prevents an appellant from treating the first deposit as sufficient for both stages.** It performs no useful work where the first deposit already covers the entire requirement calculated on the surviving demand. To insist on a second payment in that situation would convert a condition of maintainability into a penalty for success at the first appellate stage.

On the rulings as they stand, and confined to non-penalty matters, the position is clear: **where the amount deposited under Section 107(6) equals or exceeds the pre-deposit computed on the tax remaining in dispute after the first appellate order,**



no further pre-deposit under Section 112(8)(b) is required for the GSTAT appeal to be maintainable. Whether other Benches and High Courts will adopt the same view remains to be seen. For the appellant whose demand has been reduced below the sum already deposited, however, the practical answer is that he has paid once, and paid enough.

In cases involving pure penalty demands (where no tax is in dispute), readers are requested to refer to our separate analysis on the applicable pre-deposit requirements, available at gstindia.biz



*Authored by **Ashu Dalmia**, who places on record his appreciation for the research and drafting assistance provided by Ankita Jha.*

Disclaimer: This article reflects our own reading, interpretation, and professional determination of the order of the Jharkhand High Court in *Ashirwad Food Industries* and the orders of the GST Appellate Tribunal, Cuttack Bench, in *Manoranjan Dash*, based on the text of these orders as available to us. It does not constitute legal advice and should not be relied upon or acted upon as such without independent professional consultation.