

Gaurav Jain and Another v. Joint Commissioner (Appeals-II), CGST Delhi Zone and Another

Case number: W.P.(C) 8414/2026

Citation: 2026:DHC:6124-DB

Decision date: 2026-07-31

Penalty-only appeals; prospective operation of the substituted Section 107(6) proviso; vested appellate rights and commencement of adjudicatory proceedings

Court: Delhi High Court

Bench: Hon'ble Mr. Justice Anil Kshetarpal and Hon'ble Ms. Justice Shail Jain

Decision stage: Final allowance of the writ on the substantive temporal applicability of the penalty-only appeal pre-deposit. Penalty merits, constitutional validity and the alternative request for High Court waiver were not decided; no penalty order was quashed.

01 Facts of case and issues

A show-cause notice of 25 June 2025 proposed personal penalties under Section 122(1A). The order of 16 December 2025 imposed Rs. 346,55,18,856 on each petitioner, without an individual tax demand. The alleged wrongful ITC arrangements were background allegations, not findings made in this writ.

From 1 October 2025, the substituted Section 107(6) proviso required ten per cent of penalty for penalty-only appeals. The petitioners challenged its application to their earlier-commenced proceedings after the Appellate Authority refused their hardship-based waiver request. The issue was which appellate conditions governed, rather than whether the penalties were justified.

Pinpoint: Paragraphs 1–9 and 29–30, physical pp. 1–4 and 10–11.

02 Discussion by Hon'ble Court

The Court applied the substantive vested-right principles discussed in Hoosein Kasam Dada, Garikapati Veeraya and Videocon: the appellate remedy and its conditions attach when the lis commences, unless subsequent legislation expressly or necessarily imposes the new burden.

Here the quantified personal-penalty SCN initiated the relevant adjudication no later than 25 June 2025. Neither the later replies/hearing nor the eventual order postponed that event. An earlier transaction date or an investigation alone was not the controlling test.

The new proviso created an onerous entry condition for this category. Neither substitution, absence of a saving clause nor the filing prohibition supplied retrospective intent. Different statutory settings in the respondents' authorities were distinguished. The Appellate Authority nevertheless has no inherent power to waive an applicable statutory deposit; relief followed from non-applicability, not hardship waiver.

Pinpoint: Paragraphs 31–57 and 58–73, physical pp. 11–24.

03 Judicial decision and operative relief

The writ was allowed. The appeals must be registered without demanding ten per cent of the disputed penalties, subject to payment of any amounts admitted under Section 107(6)(a).

The Court excluded 20 March–31 July 2026 when computing appeal limitation and required appeals within four weeks of judgment. Any remaining delay required consideration under Section 107(4), in accordance with law. Recovery protection lasted four weeks; thereafter Section 107(7) depended on timely appeals and applicable deposit compliance. The authority's statement that it could not waive a legally applicable deposit was not set aside.

Pinpoint: Paragraphs 75–81, physical pp. 24–26.

04 In favour of

Petitioners, on the governing pre-deposit regime and specified appellate protection; the underlying penalties were neither cancelled nor adjudicated on their merits.

Final substantive appellate-right relief, without remand or penalty exoneration. The constitutional challenge and alternative High Court waiver prayer were unnecessary to decide. The four-week directions are historical case-specific relief, not a new filing window.

Pinpoint: Paragraphs 74–81, physical pp. 24–26.

05 AKHB REVIEW POINT

Check the precise penalty-only category, SCN initiating adjudication, continuity to the appealed order and applicable statutory version. Do not use the tax-period date alone or extend the holding automatically to every investigation, mixed tax-and-penalty demand or Tribunal appeal. Preserve admitted-dues compliance and limitation analysis.

The judgment does not confer a general hardship waiver. Its treatment of a more onerous penalty-only condition should not be converted into a ruling on every beneficial change affecting Section 129(3) appeals. Later Delhi application is verified below; nationwide finality, actual appeal filing and continuing protection are not certified.

Pinpoint: AKHB analysis based on paragraphs 14–16, 43–57 and 70–81; distinct from the Court's holding.

Sources and limitations

Relevant provisions

CGST Act 2017 Sections 107(1), 107(4), 107(6), 107(7), 122(1A) and 129(3); Finance Act 2025 Section 129; IGST Act 2017 Section 20 in the penalty background; Constitution of India Article 226. Comparative statutes discussed by the Court: Assam Sales Tax Act 1947 Section 30; Negotiable Instruments Act 1881 Section 148; Customs Act 1962 Section 129E.

Statutory note

India Code's CGST Act compilation as at 11 June 2026 was checked on 13 October 2026 at physical pp. 85–86. It confirms the present Section 107(6) penalty-only proviso and its substitution by Finance Act 2025 Section 129 effective 1 October 2025, as well as admitted amounts under clause (a), the disputed-tax deposit under clause (b), and the deemed-stay consequence in subsection (7). The Rs. 20 crore ceiling in clause (b) is attached to disputed tax; it is not a stated ceiling in the penalty-only proviso. The historic proviso discussed in this judgment concerned Section 129(3) and required twenty-five per cent of penalty. The new proviso's lower percentage for that category is distinct from the newly imposed burden considered here.

The operative Central text and amendment footnote were checked independently; no exhaustive State-law consolidation is claimed. This note does not decide the separate temporal application of Section 112(8) for GSTAT appeals, a mixed tax/penalty demand, all beneficial amendments or the constitutional validity of an uncapped penalty-only deposit. Section 107(1)/(4) remains communication-based three months with a further sufficient-cause month. The Court's exclusion and four-week directions must be read with its residual-delay condition, not treated as unlimited condonation or an extension available today.

Treatment note

Checked 13 October 2026. The official Delhi High Court exact-case result identifies these parties, shows DISPOSED and Next Date NA, and lists five orders from 1 July to 31 July 2026, the last being this judgment with no corrigendum in the returned entry. No later order appeared in that exact writ's returned list. Earlier listed orders were not individually reviewed. Bounded party-name, docket, citation, review/stay/appeal and Supreme Court official-domain searches did not establish a later direct appellate reversal, stay or review. This is not exhaustive registry or citator clearance.

Arun Kumar Jain v. Additional Commissioner, CGST Delhi West, W.P.(C) 2704/2025 and connected matters, 13 August 2026, 2026:DHC:6609-DB, paragraphs 11–15(iii), expressly applies Gaurav Jain to the pre-deposit regime for earlier SCNs. That is subsequent coordinate-Bench application, not appellate affirmation. Its separate penalty merits remained open. Additional later-case and related Supreme Court pre-deposit leads were located but are not used to assert further holdings without verified official primary review. In particular, no final Supreme Court resolution of Gaurav Jain's issue is claimed. The actual filing, admitted-dues payment, condonation or outcome of these petitioners' statutory appeals was not verified.

Scope of source review

All 26 physical pages of the original judgment were fully read and individually visually inspected, including caption, every numbered paragraph, footnotes and disposal. Original bytes remain unchanged; a fresh official download on 13 October 2026 is byte-identical. Arun Kumar Jain's complete 12-page official original was read as extracted text; physical pp. 1 and 9–12 were individually viewed for identity and later treatment. India Code review was confined to the pertinent Section 107 text and amendment footnotes, not the entire compilation. Other cited precedents are described only as this Court discusses them; no separate full-text review of every cited authority is claimed.

Source notes

The neutral citation 2026:DHC:6124-DB is image-only in the PDF and independently appears in the official order-list entry. Reservation, pronouncement and upload dates are distinct. The caption names Gaurav Jain and another without identifying the second petitioner by name; no name is supplied by inference. The judgment's 20 March 2026 institution date is reported as recorded in paragraphs 9 and 77, not independently established from an original filing receipt. Each petitioner's stated aggregate penalty is Rs. 346,55,18,856, not a combined total for both. No actual ten-per-cent deposit or payment is inferred. The underlying SCN, adjudication file and appellate filings were not separately obtained. Cryptographic digital-signature validation was not performed.

Primary source

Source description: Official Delhi High Court judgment

Official source: [Open source document](#)

Source pages: 26

Judgment author: Anil Kshetarpal, J.

Outcome type: final high court predeposit relief

Additional source

India Code: CGST Act, compilation as at 11 June 2026

Official source: [Open source document](#)

Pinpoint: Physical pp. 85–86: Section 107(1), (4), (6) and (7), and Finance Act 2025 Section 129 commencement footnote. Targeted web-text verification.

Arun Kumar Jain v. Additional Commissioner CGST Delhi West and connected matters, 13 August 2026

Official source: [Open source document](#)

Pinpoint: 2026:DHC:6609-DB; paragraphs 11–15(iii), physical pp. 9–11. Subsequent coordinate-Bench application of Gaurav Jain; no appellate affirmation.

Delhi High Court official case-number order search

Official source: [Open source document](#)

Pinpoint: W.P.(C) 8414/2026 exact party/status result and five returned order entries ending 31 July 2026; checked 13 October 2026. Not an exhaustive separate appellate registry search.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official judgment and identified primary sources. No human legal review is claimed.

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Source checked: 2026-10-13

Reserved date: 2026-07-20