

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 1954/2026

Date of pronouncement: 22.09.2026

Date of uploading: 24.09.2026

Sh. Zahoor Ahmed Mir,
S/o Late Haji Ghulam Hassan Mir,
R/o Mir Enclave, Athwajan, Srinagar,
Director of M/S H K Cement Industries
Pvt. Ltd.

.....Appellant(s)/Petitioner(s)

Through: Mr. Puneet Rai, Mr. Manish Mittal,
Mr. Hasnain Khwaja & Mr. Aryan Mittal,
Advocates

vs

1. Joint Commissioner, Office of Principal
Commissioner Central GST, Jammu
Commissionerate.
2. Commissioner, Appeals, Central Goods
and Services Tax Appeals,
Commissionerate, Jammu.
3. Additional Director, DGGI Directorate
General of GST Intelligence Chandigarh
Zonal Unit, C. R. Building, Sector- 17C,
Chandigarh – 160017

..... Respondent(s)

Through: Mr. Dheeraj Nanda, CGSC

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

ORDER (ORAL)

22.09.2026

Sanjeev Kumar 'J'

1. In this petition, filed under Article 226 of the Constitution of India, the petitioner-Zahoor Ahmed Mir, Director of M/S H. K Cement Industries Pvt. Ltd. [**the Company**] seeks to challenge an order in appeal dated 20.08.2025 passed by respondent No. 2 under Section 107 of the CGST/J&K GST, 2017 [**the Act**] to the extent that it confirms the penalty

imposed on the petitioner under Section 122(1A) of the Act. The impugned order in appeal is assailed, primarily, on the ground that the respondent No. 2 (the First Appellate Authority) has confirmed the penalty imposed by the Adjudicating Authority on the petitioner under Section 122 (1 A) of the Act in breach of principles of natural justice.

2. It is submitted that the impugned order was passed by the First Appellate Authority in an appeal filed by the Company under Section 107 of the Act and the appeal was directed against the imposition of interest and penalty against the Company only. It is further submitted that the petitioner has filed a separate appeal to challenge the penalty imposed upon him under Section 122(1 A) of the Act, though, the same has arisen from a composite order passed by the Adjudicating Authority on 13.10.2024.
3. Before we appreciate the grounds of challenge urged by the petitioner to assail the impugned order in appeal, we deem it appropriate to state few facts, as are germane to the disposal of this petition.
4. Vide order in original dated 30.10.2024, passed by the Adjudicating Authority, both the Company and the petitioner in his capacity as Director of the Company, were held liable to pay penalty. The Company was held liable to pay GST and penalty in terms of Section 74 (1) read with Section 74 (9) of the Act. The petitioner, being a Director of the Company was also held separately liable to penalty equivalent to the tax confirmed against the Company. The order in original passed by the Adjudicating Authority was a composite one.
5. Feeling aggrieved, the Company and the petitioner filed two separate appeals, challenging the confirmation of the respective demands, raised

against the Company and as well as the respondent. The appeal of the Company to the extent of demand confirmed against it, came to be considered by the First Appellate Authority, which in terms of an order in appeal dated 30.10.2025, dismissed the appeal of the Company and upheld the demand of tax and penalty imposed against the Company. However, while doing so, the First Appellate Authority also considered the issue of demand, raised in the composite order against the petitioner and confirmed the same alongwith that of the Company. The petitioner herein was neither a party in the appeal filed by the Company nor was afforded any opportunity of being heard. That apart, a separate appeal filed by the petitioner herein was not decided.

6. It is in this background, the petitioner, having been seriously prejudiced by the order impugned passed by the First Appellate Authority as against him, has approached this Court through the medium of instant petition.
7. Having heard learned counsel for the parties and perused material on record, we are of the considered opinion that the order in appeal, impugned in this petition, in so far as it determines and confirms the liability of the petitioner to pay penalty under Section 122 (1A) of the Act, is in violation of principles of natural justice and, therefore, nullity in the eye of law.
8. Indisputably, the order in original in the instant case was a composite order, both against the Company as well as the Director and, therefore, the Company as well as the Director were well within their right to file the separate appeals. As a matter of fact, two separate appeals, one by the Company and another by the Director (the petitioner herein) were filed

before the First Appellate Authority, which Authority, instead of considering both the appeals together, took up the appeal filed by the Company first and disposed it in terms of the judgment impugned in this writ petition.

9. We are told that the Company has already assailed the impugned order to the extent it pertains to it before the GST Tribunal, J&K in Jammu. The appeal filed by the Director, challenging the part of the composite order in original as it adversely affects him, is pending adjudication before the First Appellate Authority. In that view of the matter, it was not legally permissible for the First Appellate Authority to discuss, determine and confirm the demand of penalty raised in the order of original against the petitioner herein, more particularly, when he was not a party and had no opportunity to project his case. Needless to say that the case of the petitioner herein may be different from the Company and it is always open to the Director to even take a plea, which may be contrary to the view taken by the Company so as to avoid personal liability. The First Appellate Authority, thus, committed a serious error of law by virtually disposing of the appeal of the petitioner without even affording him an opportunity of being heard and, even depriving the petitioner to avail the statutory remedy of appeal before the GST Tribunal.
10. Thus, viewed from any angle, the impugned order in appeal passed by the First Appellate Authority, in so far as it pertains to the petitioner, who is a Director of the Company, is not sustainable in law and, therefore, deserves to be quashed.
11. *Ordered accordingly.*

12. It needs to be clarified that the order in appeal impugned in this petition, insofar as the Company is concerned, is subject matter of challenge before the GST Tribunal in an appeal by the Company and, therefore, nothing said herein for the disposal of this petition would prejudice the either side before the Appellate Tribunal. This petition is, accordingly, ***disposed of***, leaving it open to the petitioner to pursue his appeal before the First Appellate Authority. We would like to make it clear that notwithstanding what has been said by the First Appellate Authority in the order in appeal, impugned before us, shall prejudice the petitioner in any manner and it shall be open to him to raise all available grounds of challenge before the Appellate Authority.
13. We direct that the Appellate Authority shall consider such grounds of challenge on the touchstone of law without being uninfluenced by its observations made in the order in appeal as against the petitioner.

(Shahzad Azeem)
Judge

(Sanjeev Kumar)
Judge

Jammu
22.09.2026
Vishal Sharma

Whether the order is reportable?:
Whether the order is speaking?:

Yes/No
Yes/No