IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2026] SGHC 101

Originating Application No 859 of 2025

Between

Commersol Commodities Pte Ltd

… *Applicant*

And

Comptroller of Goods and Services Tax

… *Respondent*

GROUNDS OF DECISION

[Administrative Law — Judicial Review — Exhaustion of alternative statutory remedies]
[Revenue Law — Goods and Services Tax — Goods and Services Tax Act sections 45, 49, and 51]

TABLE OF CONTENTS

INTRODUCTION **1**

BACKGROUND **2**

ANALYSIS **4**

THE REQUIREMENT TO EXHAUST ALTERNATIVE STATUTORY REMEDIES BEFORE APPLYING FOR JUDICIAL REVIEW 4

WHETHER THE GST BOARD OF REVIEW COULD ONLY DEAL WITH DISAGREEMENTS "ON THE MERITS" AND NOT COMPLAINTS ABOUT THE DECISION-MAKING PROCESS 7

IT WOULD NOT BE IN THE INTERESTS OF JUSTICE TO ALLOW COMMERSOL TO APPLY FOR JUDICIAL REVIEW WHEN IT HAD FAILED TO APPEAL TO THE GST BOARD OF REVIEW 10

CONCLUSION **13**

Version No 1: 12 May 2026 (15:46 hrs)

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Commersol Commodities Pte Ltd
v
Comptroller of Goods and Services Tax

[2026] SGHC 101

General Division of the High Court — Originating Application No 859 of 2025
Andre Maniam J
13 April 2026

12 May 2026

Andre Maniam J:

Introduction

1 The applicant ("Commersol") sought permission to apply for judicial review against the respondent (the "Comptroller"). I did not grant such permission, on the basis that Commersol had not exhausted its rights of appeal or other remedies provided under any written law: in particular, s 51 of the Goods and Services Tax Act 1993 ("GST Act") provided Commersol with a right of appeal against the Comptroller's decision that Commersol disagreed with, but Commersol did not pursue such an appeal.

2 Commersol has indicated that it intends to appeal against my decision. These are my grounds of decision.

Background

3 Commersol disagreed with certain goods and services tax ("GST") assessments made by the Comptroller under s 45 of the GST Act, by which additional GST was assessed as follows:

(a) for the quarter ended 31 December 2015: $33,163.60;

(b) for the quarter ended 31 March 2016: $85,526.59;

(c) for the quarter ended 30 June 2016: $5,314.70.

4 Under s 49 of the GST Act, Commersol was entitled to apply to the Comptroller, by notice of objection in writing, "for review of any decision made by the Comptroller" with respect to various matters as listed in s 49(1), including (under s 49(1)(j)), assessments under s 45, or the amount of such assessments.

5 Pursuant to s 49(2) of the GST Act, any application for review and revision was to be made "within 30 days after the date the person has been notified of the decision to which the person objects", or "such other extended time as the Comptroller may allow."

6 Those assessments were raised on 31 December 2020, 30 March 2021, and 30 June 2021 respectively; each notice of assessment stated that if Commersol disputed the assessment, Commersol had to give the Comptroller a notice of objection in writing within thirty days from the date of the assessment.

7 Following the 31 December 2020 assessment, on 12 January 2021 Commersol sought an extension of time to respond, and the Comptroller

Version No 1: 12 May 2026 (15:46 hrs)

allowed Commersol until 11 February 2021 to do so. However, Commersol did not respond by that date.

8 On 27 September 2021 (by which time it was more than thirty days after all the assessments that Commersol disagreed with) the Comptroller exercised his power under s 79(1) of the GST Act to appoint OCBC Bank as Commersol's agent, to recover the outstanding taxes and penalties due.

9 Following this, Commersol contacted the Comptroller, indicated that it objected to the assessments, and requested that the Comptroller review the assessments. Communications ensued, culminating in the Comptroller's email of 4 June 2024 stating, "we will be reviewing your grounds of objection stated in your objection letter dated 08 Mar 2024, and will inform of our decision once we have concluded our review."

10 On 8 July 2024 the Comptroller wrote to ask Commersol for information and/or documents as set out in the letter. The Comptroller wrote again on 10 September 2024 setting a deadline of 18 September 2024 for Commersol to provide it with all the required information/documents.

11 On 29 October 2024 the Comptroller made a final decision to maintain the assessments, and this was conveyed to Commersol by a letter of that date.

12 On 9 June 2025 the Comptroller served a statutory demand for the overdue unpaid GST. No payment was received in response to the statutory demand. On 7 July 2025 the Comptroller commenced winding-up proceedings against Commersol by HC/CWU 246/2025.

Version No 1: 12 May 2026 (15:46 hrs)

13 On 12 August 2025 Commersol filed this originating application, seeking permission to apply for judicial review. On 19 September 2025 Commersol applied to stay the winding-up proceedings pending the determination of this originating application; the Comptroller agreed to such a stay.

Analysis

The requirement to exhaust alternative statutory remedies before applying for judicial review

14 In this originating application, Commersol sought permission to apply for:

(a) a Quashing Order to quash the Comptroller's refusal to review the disputed assessments, and any consequential enforcement decisions;

(b) a Mandatory Order directing the Respondent to reconsider and determine Commersol's GST liability on the merits, taking into account evidence already furnished by Commersol;

(c) a Prohibiting Order restraining the Comptroller from continuing or commencing winding up or enforcement action against Commersol for the time being; and

(d) related relief.

15 The Quashing Order, Mandatory Order, and Prohibiting Order sought by Commersol are all prerogative orders under Order 24 rule 2 of the Rules of Court 2021 ("ROC 2021"), which provides as follows:

Definition and general matters of this Order (O. 24, r. 2)

Version No 1: 12 May 2026 (15:46 hrs)

> **2.**—(1) The following are prerogative orders:
>
> (a) …
>
> (b) a Mandatory Order;
>
> (c) a Prohibiting Order;
>
> (d) a Quashing Order.
>
> (2) An application for a prerogative order must not be made before the applicant has exhausted any right of appeal or other remedy provided under any written law.

16 The Comptroller resisted this originating application on various grounds. Most fundamentally, the Comptroller submitted that the court could not give Commersol permission to apply for judicial review, because Commersol had not exhausted its rights of appeal or other remedies provided under any written law. As such, pursuant to Order 24 rule 2(2) of ROC 2021, Commersol could not apply for the prerogative orders that it wished to obtain.

17 In particular, Commersol had not appealed to the GST Board of Review, as it could have done under s 51 of the GST Act. Section 51 provides as follows:

> **Right of appeal**
>
> **51.**—(1) Any person who disagrees with the decision of the Comptroller on the person's application for review and revision under section 49 may appeal to the Board by —
>
> (a) lodging with the secretary, within 30 days after the date of the decision of the Comptroller on the application for review and revision, a notice of appeal; and
>
> (b) lodging with the secretary, within 30 days after the date on which such notice of appeal was lodged, a petition of appeal containing a statement of the grounds of appeal.
>
> ……
>
> (5) The Chairperson of the Board may, on such terms as the Chairperson thinks fit, permit any person to proceed with an appeal even though the notice of appeal or petition of appeal was not lodged within the time limited therefor by this section,

Version No 1: 12 May 2026 (15:46 hrs)

> if it is shown to the satisfaction of the Chairperson that the person was prevented from lodging the notice or petition in due time owing to absence, sickness or other reasonable cause and that there has been no unreasonable delay on the person's part.

18 As noted at [4] above, under s 49 of the GST Act, Commersol was entitled to apply to the Comptroller for review of the disputed assessments, and it did so, albeit belatedly. In the event, on 29 October 2024 the Comptroller made a final decision to maintain the assessments.

19 That was a decision in respect of which Commersol had a right to appeal to the GST Board of Review: [17] above.

20 Indeed, Commersol was aware of its right to appeal to the GST Board of Review: it mentioned this in its communications with the Comptroller:

(a) in an email of 15 April 2025, Commersol stated, "we are also prepared to escalate this matter through the appropriate channels, including submission to the GST Review Board or requesting a review by a senior officer";

(b) in an email of 30 May 2025, Commersol's director Ms Yeoh stated, "I will be initiating an appeal to the GST Board of Review under the Ministry of Finance"; and

(c) in an email of 3 June 2025, Commersol stated, "A formal appeal will be lodged with the GST Board of Review under the Ministry of Finance."

21 Commersol, however, never appealed to the GST Board of Review.

Version No 1: 12 May 2026 (15:46 hrs)

Whether the GST Board of Review could only deal with disagreements "on the merits" and not complaints about the decision-making process

22 At the hearing of this originating application, Commersol contended that it did not need to appeal to the GST Board of Review before applying for judicial review.

23 Commersol submitted that the GST Board of Review could not deal with a case like the present one, where Commersol's complaint was that the Comptroller had made an *unlawful* decision, in that he had:

(a) applied an incorrect legal test;

(b) failed to properly consider relevant commercial facts; and

(c) acted in a procedurally unfair manner.

24 Commersol submitted that where the complaint raised grounds for judicial review, the GST Board of Review had no power to deal with it: the GST Board of Review could only deal with cases where the Comptroller had acted lawfully (having applied the correct legal test, properly considered relevant commercial facts, and acted in a procedurally fair manner) but reached a conclusion that there was a disagreement with – then the disagreement would be about the *merits* of the decision rather than the *decision-making process*, and an appeal to the GST Board of Review could be pursued.

25 I rejected Commersol's submission that the GST Board of Review could not deal with cases where the Comptroller's decision-making process was challenged.

Version No 1: 12 May 2026 (15:46 hrs)

26 First, s 51 of the GST Act does not support the distinction that Commersol sought to draw: that the GST Board of Review could only deal with disagreements "on the merits", and not disagreements with the decision-making process. Section 51 simply says that any person who disagrees with "the decision of the Comptroller on the person's application for review and revision under section 49" may appeal to the Board: that applies to all decisions of the Comptroller under s 49 that the person in question might disagree with – whether there is dissatisfaction with the decision-making process or not.

27 Second, the requirement under Order 24 rule 2(2) to exhaust statutory rights of appeal or other remedies, before applying for judicial review, would be meaningless if (as Commersol contends) statutory rights of appeal do not cover cases where grounds for judicial review are raised. If Commersol were right, then every time an objection is raised based on Order 24 rule 2(2), the applicant could simply say that the rule does not apply because the applicant is seeking judicial review, which statutory rights of appeal or other statutory remedies cannot address.

28 Third, it is consistent with precedent, principle, and policy, to interpret statutory rights of appeal or other statutory remedies as providing full rather than partial alternatives to judicial review. It is a recognised principle that judicial review is "a remedy of last resort", and it would run counter to this for statutory remedies to be interpreted in a limited manner, such that any complaint on judicial review grounds would bypass statutory remedies and go straight to court.

29 As the court noted in *Goh Seng Heng v Official Assignee* [2025] SGHC 237 ("*Goh Seng Heng*") at [61]:

Version No 1: 12 May 2026 (15:46 hrs)

> Judicial review would not ordinarily be available for decisions where a suitable and complete alternative remedy is provided. This question stems from the principle that judicial review is "a remedy of last resort" so as to "[minimise] the potential for judicial review to be used to disrupt the smooth operation of statutory procedures which may be adequate to meet the justice of the case": *Regina (Glencore Energy UK Ltd) v Revenue and Customs Commissioners* [2017] 4 WLR 213 at [55], [56]. All alternative remedies must first be exhausted and there is no room for judicial review where Parliament provides an applicable appeal procedure unless an applicant can distinguish his case from the type of case for which the appeal procedure was provided: see *Borissik Svetlana v Urban Redevelopment Authority* [2009] 4 SLR(R) 92 at [25], citing *Regina v Secretary of State for the Home Department, ex parte Swati* [1986] 1 WLR 477 at 485. As noted at [3] above, this principle now appears in O 24 r 2(2) of the ROC 2021.

30 In *Goh Seng Heng*, the court decided that there were complete and alternative remedies provided by statute, in respect of the acts which were the subject of OA 111, 114, and 115 in that case, and that in general, the scope of review under Statutory Review under s 31 of the Bankruptcy Act is broader than that of judicial review: it may extend to reviewing the correctness of decisions taken by the Official Assignee and is not limited to the usual grounds of judicial review.

31 In similar vein, in *Re The Online Citizen Pte Ltd* [2022] 4 SLR 1005 ("*The Online Citizen*"), the court rejected an argument that a statutory right of appeal did not cover decisions that were allegedly *ultra vires*. In that case, s 59 of the Broadcasting Act provided that:

> Any licensee aggrieved by –
>
> (a) any decision of the Authority [the Info-communications Media Development Authority or "IMDA"] in the exercise of any discretion vested in it by or under this Act; or
>
> (b) anything contained in any Code of Practice of direction issued by the Authority

Version No 1: 12 May 2026 (15:46 hrs)

> may appeal to the Minister.

32 The applicant argued that an allegedly *ultra vires* decision of the IMDA was not a decision made "in the exercise of any discretion vested in it by or under [the] Act". The court held that decisions that are *ultra vires* would nevertheless fall within the phrase "anything contained in any … direction issued by the Authority" and concluded (at [32]) that "all decisions made by the IMDA should first be appealed to and reviewed by the Minister."

33 In the present case, s 51 of the GST Act simply refers to decision(s) of the Comptroller on an application for review and revision under s 49. There is no reference to any exercise of discretion as there was in s 59(1)(a) of the Broadcasting Act (which was the basis of the applicant's argument in *The Online Citizen*). On a plain reading of s 51 of the GST Act, all decisions of the Comptroller on an application for review and revision under s 49 may be appealed to the GST Board of Review, whether they are allegedly unlawful (as Commersol contends) or otherwise. Here, the Comptroller's decision of 29 October 2024 to maintain the assessments which Commersol had asked the Comptroller to review (pursuant to s 49) was a decision susceptible to appeal to the GST Board of Review (pursuant to s 51).

It would not be in the interests of justice to allow Commersol to apply for judicial review when it had failed to appeal to the GST Board of Review

34 Finally, Order 24 rule 2(2) was introduced by ROC 2021 and has no stated exceptions. The common law position on exhaustion of alternative statutory remedies prior to ROC 2021 was less absolute – it was expressed as follows in *R v Secretary of State for the Home Department, ex parte Swati* [1986] 1 WLR 477 ("*Swati*") at 485D: "…it is the cardinal principle that *save in the most exceptional circumstances*, [the courts' judicial review] jurisdiction

Version No 1: 12 May 2026 (15:46 hrs)

will not be exercised where other remedies were available and have not been used" [emphasis added]. This was in turn cited in *Borissik Svetlana v Urban Redevelopment Authority* [2009] 4 SLR(R) 92 at [25], and *The Online Citizen* at [33]; see also *Goh Seng Heng* at [61] (quoted above at [29]), *Comptroller of Income Tax v ACC* [2010] 2 SLR 1189 at [13], *The Online Citizen* at [7] and [36].

35 Although Order 24 rule 2(2) is in imperative terms, in that it says an application for a prerogative order "must not be made" before the applicant has exhausted alternative statutory remedies, Order 3 rule 2(1) provides that "Unless the context otherwise requires and subject to any other written law, all requirements in these Rules are subject to the Court's discretion to order otherwise in the interests of justice, even if they are expressed using imperative words such as 'must', 'is to' or 'shall'".

36 The present case did not involve "the most exceptional circumstances" (*Swati*) nor even "exceptional" circumstances, and it would not be in the interests of justice to allow Commersol to apply for judicial review despite it not pursuing an appeal to the GST Board of Review.

37 The only reason Commersol puts forward for not appealing, is that the GST Board of Review could not deal with its complaint, a position which I rejected.

38 Moreover, Commersol's failure to appeal to the GST Board of Review should be viewed against the backdrop of it having repeatedly mentioned the possibility of such an appeal (on 15 April, 30 May, and 3 June 2025) yet not appealing.

Version No 1: 12 May 2026 (15:46 hrs)

39 Commersol's argument that the GST Board of Review could not deal with its complaint appears to be an afterthought. If Commersol really thought that the correct course was to seek judicial review of the Comptroller's decision of 29 October 2024, it would have done so promptly. Instead, it repeatedly mentioned the possibility of appealing to the GST Board of Review but never did so. It then filed this originating application only on 12 August 2025, more than 9 months after the Comptroller's decision of 29 October 2024. It seems that the winding-up proceedings of 7 July 2025 are what prompted Commersol to apply to court, so that it could seek a stay of the winding-up proceedings, using this originating application to that end.

40 As things stand, it may yet not be too late for Commersol to appeal to the GST Board of Review. Section 51(5) of the GST Act provides that the Chairperson of the Board may permit an appeal to be proceeded with even though it was not brought within the time limited by that section "if it is shown to the satisfaction of the Chairperson that the person was prevented from lodging the notice or petition in due time owing to absence, sickness or other reasonable cause and that there has been no unreasonable delay on the person's part."

41 Whether to permit such an appeal to proceed, is a decision for the Chairperson of the Board, but if Commersol will not even lodge a notice of appeal, this is all academic.

Version No 1: 12 May 2026 (15:46 hrs)

Conclusion

42 For the above reasons, I dismissed this originating application, with costs to be paid by Commersol to the Comptroller. Those costs included costs of Commersol's application for its director, Ms Yeoh Li Ling, to represent it in these proceedings.

Andre Maniam
Judge of the High Court

Yeoh Li Ling (director) for the applicant;
Pang Mei Yu and Dong Yuhui (Inland Revenue Authority of Singapore, Law Division) for the respondent.

Version No 1: 12 May 2026 (15:46 hrs)