IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT PETITION NO: 34650 OF 2025

Between:

RSVCPL-CAR (JV), No.6-3-841/74, N-2-F-1, G. Floor, Ameerpet, Hyderabad-500016. Rep. by its Partner, Chettu Kindi Ayyapu Reddy.

...PETITIONER

AND

1. The Commissioner of Customs and Central Tax, (Appeals-I), Hyderabad Commissionerate, 7th Floor, GST Bhavan, L.B Stadium Road, Basheerbagh, Hyderabad-500004.
2. The Joint Commissioner of Central Tax, Hyderabad GST Commissionerate, 7th Floor, GST Bhavan, L.B Stadium Road, Basheerbagh, Hyderabad-500004.
3. Union of India, Rep. by the Secretary, Ministry of Finance, No.136-A, North Block, New Delhi.
4. State of Telangana, Rep. by its Principal Secretary to Government, Revenue (CT-II) Department, Secretariat, Hyderabad.
5. Central Board of Indirect Taxes and Customs, GST Policy Wing, Government of India, Ministry of Finance, New Delhi.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, Order or Direction more particularly in the nature of MANDAMUS. i) declaring the action of the 1st Respondent in passing the impugned order dated 19.9.2025 as well the O-i-O dated 22.11.2024 and the six Form DRC-07 summary orders dated 3.1.2025 passed by the 2nd Respondent are without jurisdiction, contrary to law, being barred by limitation *and consequently set aside the same as non-est and void ab initio.* ii) It is also prayed to declare that the 0-i-0 cannot be passed under section 74 of the GST Acts.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings, including recovery of tax, interest and penalty pursuant to the O-i-O dated 22.11.2024 and the six Forms DRC-07 summary orders dated 3.1.2025 passed by the 2nd Respondent under the GST Acts.

Counsel for the Petitioner: SRI MUKTINUTALAPATI RAMACHANDRA MURTHY

Counsel for the Respondent Nos.1,2 and 5: SRI D. RAGHAVENDRA RAO (SR SC FOR CBIC)

Counsel for the Respondent No.3: SRI B. MUKHERJEE, APPEARS FOR SRI N. BHUJANGA RAO, DEPUTY SOLICITOR GENERAL OF INDIA,

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT PETITION No. 34650 of 2025

ORDER:

Sri M. Ramachandra Murthy, learned counsel appears for petitioner.

Sri D. Raghavendar Rao, learned counsel appears for respondent Nos.1, 2 and 5.

Sri B. Mukherjee, learned counsel appears for Sri N. Bhujanga Rao, learned Deputy Solicitor General of India, for respondent No.3.

2. The present Writ Petition is directed against the Order-In-Original dated 22.11.2024 and Summary of the order dated 03.01.2025 and also the Order-In-Original dated 19.09.2025 passed by respondent No.1.

3. The Order-In-Appeal has been challenged on the ground that no opportunity of personal hearing was granted in teeth of Section 118 of the Central Goods and Services Tax Act, 2017

(for short 'the Act'). The operative part of the impugned Order-In-Appeal is extracted hereunder:

"5. In the present appeal, the impugned order was issued on 22nd November, 2024 and the appellant has received the same on 27th November, 2017. The appeal was required to be filed on or before 26th February, 2025, in normal period. Whereas, the appeal has been filed on 17th September, 2025 i.e., with a delay of 203 days. The appellate authority is empowered to condone a delay of one month in addition to the stipulated period of three months and any delay beyond the same cannot be condoned. Since, I am not empowered to condone the delay beyond a period of one month from the date of completion of three months from the date of communication of the impugned order, I am constrained to hold that the appeal is liable to be rejected as time-barred. In this regard, I place reliance on the decision of the Hon'ble CESTAT in the case of Shambhu Synthetics Pvt Ltd vs Commissioner, Customs vide Final Order No. 51203/2021 dated 01.04.2021, wherein, relying on the decision of the Hon'ble Supreme Court in Singh Enterprises (2008 (221) E.L.T. 163 (S.C.), the Hon'ble Tribunal held that the appellate authority has no power to allow the appeal to be presented beyond the stipulated period."

6. In view of the above, I proceed to decide the appeal without granting the personal hearing to the appellant in as much as, the submissions that are going to be made by the appellant, during the personal hearing, are not going to alter the facts of the case with regard to limitation.

7. I, therefore, pass the following order:

ORDER

The appeals are dismissed as time-barred."

4. The petitioner had also filed a delay condonation application as is evident from Annexure P.11.

5. Section 107 (8) of the Act reads as under:

> "Section 107. Appeals to Appellate Authority.-
>
> xxxxx
>
> 8) The Appellate Authority shall give an opportunity to the appellant of being heard."

6. The language of the above provision shows that opportunity of hearing is mandatory in view of expression "shall" used in it. The appellate authority in his wisdom however chose to dismiss the appeal without granting any opportunity of hearing to the petitioner. The approach of the appellate authority is therefore in breach of the above statutory provision. We are not commenting on the merits of the plea raised by the petitioner for condonation of delay.

7. However, only on account of infraction of the statutory procedure prescribed under Section 107(8) of the Act, the impugned Order-In-Appeal is set aside. The matter is remitted to the appellate authority to pass a fresh order in accordance

with law after granting an opportunity of hearing to the petitioner.

Accordingly, the instant Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous applications, if any pending, shall stand closed.

SD/-T. SRINIVASA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Commissioner of Customs and Central Tax, (Appeals-I), Hyderabad Commissionerate, 7th Floor, GST Bhavan, L.B Stadium Road, Basheerbagh, Hyderabad-500004.
2. The Joint Commissioner of Central Tax, Hyderabad GST Commissionerate, 7th Floor, GST Bhavan, L.B Stadium Road, Basheerbagh, Hyderabad-500004.
3. The Secretary Union of India, Ministry of Finance, No.136-A, North Block, New Delhi.
4. The Principal Secretary to Government, State of Telangana, Revenue (CT-II) Department, Secretariat, Hyderabad.
5. Central Board of Indirect Taxes and Customs, GST Policy Wing, Government of India, Ministry of Finance, New Delhi.
6. One CC to Sri Muktinutalapati Ramachandra Murthy, Advocate [OPUC]
7. One CC to Sri D. Raghavendra Rao (SR SC for CBIC) [OPUC]
8. One CC to Sri N. Bhujanga Rao, Deputy Solicitor General of India[OPUC]
9. Two CD Copies

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HIGH COURT

DATED:25/11/2025

ORDER

WP.No.34650 of 2025

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

11 MT
4/12/25