[3488]

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

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

WRIT PETITION NO: 3166 OF 2026

Between:

M/s. Dunapothula Mahesh, Rep. by its Proprietor, Mr. Dunapothula Mahesh, 13-6-449/66, Sai Nagar, Gudimalkapur, Hyderabad, Telangana-500 006.

...PETITIONER

AND

1. Goods and Services Tax Network (GSTN), Worldmark 1, Aerocity, Indira Gandhi International Airport, New Delhi, India-110037.
2. Assistant Commissioner (State Taxes), Mehdipatnam II Circle, Charminar Division, Hyderabad.
3. State of Telangana, Rep. by its Secretary to Government (Revenue) CT-II, Commercial Taxes / State Tax Department, Secretariat, Hyderabad.
4. Union of India, Rep. by its Secretary (Finance), Ministry of Finance, North Block, New Delhi-110 001

...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 a Writ of Mandamus or any other appropriate writ or order or direction to direct (a) the 1st Respondent to provide the Petitioner an effective remedy for filing the appeal to the Appellate Authority against the impugned order dated 3/9/2025 passed by the 2nd Respondent under Section 74 of Central Goods and Services Tax Act, 2017 and also under Telangana Goods and Services Tax Act, 2017 for the tax period 2022-23 by disputing the tax, penalty and interest or (b) alternatively grant the liberty by permitting the Petitioner to submit the manual Appeal before the Appellate Authority disputing the case on tax, penalty and

Interest under the Central Goods and Services Tax Act, 2017 and also under Telangana Goods and Services Tax Act, 2017 against the order of the 2nd Respondent dated 3/9/2025.

Counsel for the Petitioner: SRI K. P. AMARNATH REDDY

Counsel for the Respondent No 1: SRI DOMINIC FERNANDES
(senior standing counsel for CBIC)

Counsel for the Respondents No 2 & 3 : SRI K. SAI AKARSH AGP, REPRESENTING SRI SWAROOP OORILLA, SPECIAL GP FOR STATE TAX.

Counsel for the Respondents No 4: SRI ARVIND KUMAR KATA,
DEPUTY SOLICITOR GENERAL OF INDIA

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

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

WRIT PETITION No.3166 of 2026

Dated: 04.02.2026

Between:

M/s. Dunapothula Mahesh

...Petitioner

and

Goods and Services Tax Network (GSTN),
Worldmark 1, Aerocity, Indira Gandhi International Airport,
New Delhi, India – 110 037,
and 3 others.

...Respondents

ORDER:

Learned counsel Sri K.P.Amarnath Reddy appears for the petitioner.

Sri Dominic Fernandes, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs, appears for respondent No.1 – Goods and Services Tax Network (GSTN).

Sri K.Sai Akarsh, learned Assistant Government Pleader, representing Sri Swaroop Oorilla, learned Special Government Pleader for State Tax, appears for respondents No.2 and 3.

Learned counsel Sri Arvind Kumar Kata appears for respondent No.4.

2. The petitioner claims to have paid the outstanding dues after issuance of the show cause notice during the pendency of the adjudication proceedings, but the order-in-original dated 03.09.2025 has imposed the tax liability of Rs.15,50,886/-, similar amount of penalty under Section 74(9) of the Central Goods and Services Tax Act, 2017, and interest under Section 50 of the said Act amounting to Rs.8,89,232/- relatable to the period September, 2022. The petitioner had been making correspondence with the GSTN to permit it to file an appeal without pre-deposit, as the outstanding tax dues had already been paid and no case of penalty could be made out. However, in that process, time for filing the appeal expired. It is contended by the learned counsel for the petitioner that the petitioner has good grounds to explain the delay. But, the petitioner may not be compelled to make the pre-deposit of 10% against the penalty amount in the aforesaid circumstances.

3. Learned Senior Standing Counsel appearing for GSTN submits that there is no power with the GSTN to exempt the pre-deposit for filing the appeal.

4. Learned Assistant Government Pleader appearing for the State Tax also submits that the pre-deposit is a prerequisite for filing the appeal. Whether the deposit of tax during the adjudication proceedings could relieve the petitioner of the liability of penalty is a matter to be decided by the appellate authority only upon the appeal being filed with pre-deposit. The petitioner, therefore, cannot claim any exemption from making the pre-deposit. Learned Assistant Government Pleader also submits that the petitioner may be allowed liberty to approach the appellate authority with an explanation for the delay within a stipulated period and take all such grounds of law and facts in its appeal.

5. In the facts and circumstances noted above, since there is no exemption for any taxpayer from making pre-deposit while filing the appeal under the GST regime, whether the liability of penalty or tax was rightly imposed or not would be the subject matter of appeal on merits, the same cannot be a ground to seek exemption from making the pre-deposit. However, since the petitioner had been in correspondence with the respondent authorities on this issue and has missed the cut off date

for filing the appeal, we grant liberty to the petitioner to file the appeal within a period of two weeks with statutory deposit and a delay condonation application. The petitioner may take all such grounds of law and facts in the memo of appeal as are available to it. Needless to say, the appellate authority would consider the question of delay sympathetically taking into account the aforesaid facts and circumstances and if he is satisfied on the point of delay, proceed to decide the appeal on merits in accordance with law within a reasonable time, preferably, within twelve weeks from the date of receipt of a copy of this order.

6. The writ petition is accordingly disposed of. There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

SD/-AHMED ABDULLAH KHAN
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. Goods and Services Tax Network (GSTN), Worldmark 1, Aerocity, Indira Gandhi International Airport, New Delhi, India-110037.
2. Assistant Commissioner (State Taxes), Mehdipatnam II Circle, Charminar Division, Hyderabad.
3. The Secretary to Government (Revenue), State of Telangana, CT-II, Commercial Taxes / State Tax Department, Secretariat, Hyderabad.
4. The Secretary (Finance), Ministry of Finance, Union of India, North Block, New Delhi-110 001
5. One CC to SRI K. P. AMARNATH REDDY, Advocate [OPUC]
6. One CC to SRI DOMINIC FERNANDES (senior standing counsel for CBIC) [OPUC]

7. One CC to SRI ARVIND KUMAR KATA, DEPUTY SOLICITOR GENERAL OF INDIA , [OPUC]
8. Two CCs to SPECIAL GP FOR STATE TAX, High Court for the State of Telangana at Hyderabad. [OUT]
9. Two CD Copies

DAN
BS

HIGH COURT

DATED:04/02/2026

ORDER

WP.No.3166 of 2026

HIGH COURT FOR THE STATE OF TELANGANA
26 FEB 2026
★ DESPATCHED ★

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

(12)

NT
16/2/26.