[3488]

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

WEDNESDAY, THE FIRST DAY OF APRIL
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: 34685 OF 2025

Between:

M/s Adani-Elbit Advanced Systems India Limited, having its registered office at 4th Floor, Aparna Crest, Road No 2, Banjara hills, Secunderabad, Hyderabad, Telangana, 500034 GSTIN 36AAPCA0455K1ZG through its Director, Ramesh K S,S/o Shivappa, Age 53 years, R/o 20/A, 1st Main Road, Poornapragna Layout, Bangalore South, Banashankari III Stage, Bangalore – 560085.

...PETITIONER

AND

1. Union of India, Through Finance Secretary, North Block, New Delhi
2. The Additional Commissioner, CGST Hyderabad GST Commissionerate GST Bhawan, LB Stadium Road, Basheerbagh, Hyderabad- 500004
3. The Commissioner, Appeal-I, CGST, Hyderabad GST Commissionerate 7th Floor, GST Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad- 500004

...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

(i) issuance of a writ in the nature of Certiorari or any other writ for quashing the impugned MO (Annexure P-6) passed by Respondent No. 2 under Section 73 of the Central GST/ Telangana GST Act and OIA dated 21/08/2025 (Annexure P-12) passed by Respondent No.3.

(ii) For issuance of appropriate writ/order or direction to the appropriate authority for fresh consideration of the present case on merits.

(iii) For issuance of any other appropriate writ/order or direction which this Honourable Court may deem fit and proper in the circumstances of the case.

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 Suspend the impugned Order in Original No.159/GST/2023-24-Adjn.(ADC) HYD-GST 28/03/2005 passed by Respondent No. 2 and also Order in Appeal No.Hyd-GST-HYC-APP1-COMMR.-41-2025-26 dated 21/08/2025 passed by Respondent No. 3, pending disposal of this Writ Petition.

Counsel for the Petitioner: SRI PAWAN ARORA FOR SRI MYLA SRIHARI
Counsel for the Respondent No.1: SRI N.BHUJANGA RAO, DEPUTY SOLICITOR GENERAL OF INDIA
Counsel for the Respondent Nos.2 & 3: SRI D.RAGHAVENDAR RAO, SENIOR SC FOR CBIC

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.34685 of 2025

Dated: 01.04.2026

Between:

M/s. Adani-Elbit Advanced Systems India Limited.

...Petitioner

and

Union of India,
Through Finance Secretary,
North Block, New Delhi,
and 2 others.

...Respondents

ORDER:

Learned counsel Sri Pawan Arora, representing learned counsel Sri Myla Srihari, appears for the petitioner.

Sri D.Raghavendar Rao, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs (CBIC), appears for respondents No.2 and 3.

2. The present writ petition is directed against the order-in-original dated 28.03.2024 passed by respondent No.2 and the order-in-appeal dated 21.08.2025 passed by respondent No.3.

3. The order-in-appeal has been challenged on the ground that no opportunity of personal hearing was granted in teeth of Section 107(8) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as, "the Act"). The operative part of the impugned order-in-appeal is extracted hereunder:

> "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 appeal is dismissed as time-barred."

4. A counter affidavit has been filed by the respondents.

5. Learned Senior Standing Counsel for CBIC submits that the appeal was filed with a delay of 242 days. However, in the writ petition, the petitioner has sought to recompute the delay and taken a different ground.

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

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

7. 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.

8. Be that as it may, since no opportunity of hearing has been granted before dismissal of the appeal on grounds of delay, in teeth of Section 107(8) of the Act, it is not necessary for us to go into the period of delay or the explanation to be furnished by the petitioner before the appellate authority. It is open for the petitioner to explain the delay before the appellate authority who may consider the same.

9. 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.

10. Accordingly, the instant writ petition is disposed of. There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

SD/- K.BHAVANI SWAMY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Finance Secretary, Union of India, North Block, New Delhi
2. The Additional Commissioner, CGST Hyderabad GST Commissionerate GST Bhawan, LB Stadium Road, Basheerbagh, Hyderabad- 500004
3. The Commissioner, Appeal-I, CGST, Hyderabad GST Commissionerate 7th Floor, GST Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad- 500004
4. One CC to SRI MYLA SRIHARI, Advocate [OPUC]
5. One CC to SRI N.BHUJANGA RAO, DEPUTY SOLICITOR GENERAL OF INDIA [OPUC]
6. One CC to SRI D.RAGHAVENDAR RAO, SENIOR SC FOR CBIC [OPUC]
7. Two CD Copies

PSK.
TKS

HIGH COURT

DATED:01/04/2026

ORDER

WP.No.34685 of 2025

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

(9) NT
18/4/26.