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

MONDAY,THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH

THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT PETITION NO: 22594 OF 2025

Between:

M/s. Mahalaxmi Enterprises, 1-6-94/5 and 94/6, Boyapally Gate Road, Mahabubnagar-509001, Mahabubnagar District. Telangana. Rep. by its Partner, Mr. N. Ravi Kumar.

...PETITIONER

AND

1. The Commissioner of Customs and Central Tax, Appeals-I, Commissionerate. Hyderabad. 7th Floor, GST Bhavan, L.B. Stadium Road. Basheerbagh, Hyderabad, Telangana.
2. The Joint Commissioner of Central Tax, O/o The Commissioner of Central Tax, Rangareddy GST Commissionerate. GST Bhavan, FL No. 1-98/7/43, VIP Hills, Jai Hind Enclave, Madhapur, Hyderabad-500081, Telangana.
3. The Union of India, Rep. by its Secretary (Finance), Ministry of Finance. North Block, New Delhi - 110001.

...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 declaring that the impugned Order-in-Original No. 105/2023-24-Adjn(ADC)-ST, dated 29/01/2024, passed by the Second Respondent for the F.Y.s. 2016-17 and 2017-18 (up to June, 2017) under the Service Tax Act (Chapter V of the Finance Act, 1994) is barred by Limitation under S. 73, the extended period of limitation under the Sub-Section (1) of S. 73 is not applicable in the present case, passed beyond 1 year from the date of show cause notice which is beyond the period of limitation u/Sub-Section (4B) of S. 73, even on merits not sustainable and further that the impugned Ex-Parte Order-in-Appeal No. HYD-SVTAX-RRC-APP1-013-2025-26, dated 30/04/2025, of the First Respondent rejecting the Appeal on the ground of limitation without giving any opportunity of hearing, is arbitrary, violative of the principles of natural justice, unsustainable and illegal and consequently set aside both the impugned orders or

in the alternative direct the First Respondent to entertain the Appeal and decide the same on merits

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 impugned Order-in-Original No. 105/2023-24-Adjn(ADC)-ST, dated 29/01/2024, passed by the Second Respondent for the F.Y.s. 2016-17 and 2017-18 (up to June, 2017) under the Service Tax Act (Chapter V of the Finance Act, 1994)

Counsel for the Petitioner: SRI. G NARENDRA CHETTY

Counsel for the Respondent Nos.1&2: SRI DOMINIC FERNANDES (senior standing counsel for CBIC)

Counsel for the Respondent No.3: SRI B. MUKHERJEE SC FOR CENTRAL GOVERNMENT

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.22594 of 2025

Order:

Heard Mr. G.Narendra Chetty, learned counsel for the petitioner; Mr. Dominic Fernandes, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs (CBIC) appearing for respondents No.1 and 2 and Mr. B.Mukherjee, learned counsel appearing for respondent No.3- Union of India.

2. The appellate authority has dismissed the appeal as barred by limitation under Section 73 of the Finance Act, 1994 (for short 'Act of 1994'). Therefore, petitioner, being aggrieved, has preferred the instant Writ Petition.

3. The order-in-original is dated 29.01.2024.

4. Sub-Section (1) r/w Sub-Section (5) of Section 86 of Act of 1994 provides for a remedy of appeal before the learned

Customs, Excise and Service Tax Appellate Tribunal (for short 'CESTAT').

5. Learned counsel for the petitioner submits that the appellate authority has not taken into consideration the explanation furnished by the petitioner for the delay in approaching it. It is also submitted that the order-in-original was dispatched to the petitioner's old address. He submits that the petitioner may be allowed to raise all grounds available to it before the learned CESTAT and learned CESTAT may be directed to condone the delay, if any, in approaching it in appeal including the time spent in pursuing the Writ Petition before this Court.

6. Learned Senior Standing Counsel for CBIC submits that the petitioner should have approached the learned CESTAT even if its appeal was dismissed on the ground of delay.

7. Having regard to the aforesaid facts and circumstances, the instant Writ Petition is disposed of with liberty to the petitioner

to prefer an appeal with statutory pre-deposit, if any, before the learned CESTAT, within a period of two weeks.

8. In case the appeal is preferred within the aforesaid period of two weeks, learned CESTAT would consider the question of delay in approaching it, taking into account the time spent by the petitioner in pursuing the Writ Petition before this Court and take a decision, in accordance with law.

9. Let it be made clear that we have not made any observations on the merits of the case.

As a sequel, miscellaneous petitions, pending if any, stand closed.

SD/-A. SRINIVASA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Commissioner of Customs and Central Tax, Appeals-I, Commissionerate. Hyderabad. 7th Floor, GST Bhavan, L.B. Stadium Road. Basheerbagh, Hyderabad, Telangana.
2. The Joint Commissioner of Central Tax, O/o The Commissioner of Central Tax, Range Reddy GST Commissionerate. GST Bhavan, FL No. 1-98/7/43, VIP Hills, Jai Hind Enclave, Madhapur, Hyderabad-500081, Telangana.
3. The Secretary (Finance), Ministry of Finance. North Block, New Delhi - 110001.
4. One CC to SRI. G NARENDRA CHETTY Advocate [OPUC]
5. One CC to SRI. DOMINIC FERNANDES (senior standing counsel for CBIC) [OPUC]
6. One CC to SRI B. MUKHERJEE SC FOR CENTRAL GOVERNMENT [OPUC]
7. Two CD Copies

HIGH COURT

DATED:15/09/2025



ORDER

WP.No.22594 of 2025

DISPOSING OF THE WP
WITHOUT COSTS

9 MT
27/10/25