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

TUESDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

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

WRIT PETITION NO: 28221 OF 2025

Between:

M/s. Padmaja Gas Agencies, O/o. 1-1, Yadigir Road, Mahabubnagar, Telangana-502001, Represented by its Proprietor, Smt. Gruddanti Padmaja Reddy.

...PETITIONER

AND

1. The Additional Commissioner (Appeals-1), O/o. The Commissioner of Customs & Central Tax, Appeals-I, Hyderabad Commissionarate, 7th floor, GST Bhavan, L.B.Stadium, Basheerbagh, Hyderapad-500004.
2. The Assistant Commissioner of Central Tax, Narayanpet Range, Mahabubnagar GST Division, Rangareddy GST Commissionerate. Hyderabad.
3. The Superintendent of Central Tax, Narayanpet Range, Mahabubnagar GST Division, Rangareddy GST Commissionerate. Hyderabad.
4. The State of Telangana, Rep. by its Principal Secretary, Revenue (CT) Department, Telangana Secretariat, Hyderabad
5. The Central Board of Indirect Taxes and Customs, Rep. by its Chairman, Ministry of Finance, Department of Revenue, North Block, Central Secretariat, New Delhi 100 001

...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, Order or direction more particular one in the nature of a Writ of Mandamus declaring the impugned Order vide Order-In-Appeal No. HYD-GST-RRC-APPL-424-24-25-GST dated 18.10.2024 passed by the 1st respondent against the Appeal No.186/2024-RR-GST-ADC dated 22.04.2024 under the provisions of CGST/SGST Act, 2017, on the ground that the Appeal filed by the

Appellant is Time-barred, without considering the fact that the said delay of 23 days was within condonable period of 30 days, even though the Petitioner demonstrated sufficient cause, which is illegal, arbitrary, against the principles of natural Justice and in violation of Provisions of Section 107 of the GST Act,2017 apart from violative of Article 14, 19(1)(g) and 265 of the Constitution of India and set aside the same, and consequently, direct the Respondent.No.1 to restore the appeal filed by the Petitioner dated 22.04.2024.

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 pursuant to the impugned Order vide Order-In-Appeal No. HYD-GST-RRC-APPL-424-24-25-GST dated 18.10.2024, pending disposal of the Writ Petition.

Counsel for the Petitioner: SRI KOHIR BHASKAR REDDY

Counsel for the Respondents No.1 to 3 & 5: SRI DOMINIC FERNANDES, SENIOR STANDING COUNSEL FOR CBIC

Counsel for the Respondent No.4: GP FOR COMMERCIAL TAXES

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.28221 of 2025

ORDER:

Learned counsel Sri Kohir Bhaskar Reddy appears for the petitioner.

Sri Dominic Fernandes, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs (CBIC), appears for respondents No.1 to 3 and 5.

2. Heard the learned counsel for the parties.

3. The appeal preferred by the petitioner against the order-in-original dated 08.12.2023 was rejected by the impugned order-in-appeal dated 18.10.2024 by respondent No.1 on grounds of delay of 23 days. The petitioner has taken a plea that the order-in-original was received on 15.12.2023. The summary of the order in DRC-07 was uploaded belatedly without showing the interest and penalty on 31.12.2023. The proprietor of the petitioner had suffered some medical issues as she is old aged. After

recovery, she filed the appeal in Form GST APL-01 physically with 23 days delays, which according to the petitioner is condonable under Section 107(4) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as, "the Act"). However, the same was rejected as being delayed by 23 days from the date of the order-in-original. Therefore, the petitioner has preferred this writ petition.

4. We have considered the submissions of the learned counsel for the petitioner and also learned counsel for the revenue.

5. Rule 108 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as, "the Rules"), governs the procedure for filing an appeal under Section 107(1) of the Act. The relevant Rule is quoted hereunder:

> **"108. Appeal to the Appellate Authority.-**
>
> (1) An appeal to the Appellate Authority under sub-section (1) of section 107 shall be filed in **FORM GST APL-01**, along with the relevant documents, either electronically, and a provisional acknowledgement shall be issued to the appellant immediately.

PROVIDED that an appeal to the Appellate Authority may be filed manually in **FORM GST APL-01,** along with the relevant documents, only if –

(i) the Commissioner has so notified, or

(ii) the same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the common portal,

and in such case, a provisional acknowledgement shall be issued to the appellant immediately.

(2) The grounds of appeal and the form of verification as contained in **FORM GST APL-01** shall be signed in the manner specified in rule 26.

(3) Where the decision or order appealed against is uploaded on the common portal, a final acknowledgement, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal:

PROVIDED that where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filing of **FORM GST APL-01** and a final acknowledgement, indicating appeal number, shall be issued in **FORM GST APL-02** by the Appellate Authority or an officer authorised by him in this behalf, and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal:

PROVIDED FURTHER that where the said self-certified copy of the decision or order is not submitted within a period of seven days from the date of filing of

FORM GST APL-01, the date of submission of such copy shall be considered as the date of filing of appeal.

Explanation.– For the provisions of this rule, the appeal shall be treated as filed only when the final acknowledgement, indicating the appeal number, is issued."

6. Proviso to Rule 108(1) of the Rules permits filing of an appeal manually in FORM GST APL-01 along with the relevant documents, if the Commissioner has so notified or the same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the common portal, in which case, a provisional acknowledgement shall be issued to the appellant immediately. Upon uploading of the order or decision appealed against, a final acknowledgement indicating appeal number shall be issued in FORM GST APL-02 and the date of issue of the provisional acknowledgement shall be considered as the date of filing of appeal. Proviso to Rule 108(3) of the Rules provides that where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days

from the date of filing of FORM GST APL-01 and a final acknowledgement indicating appeal number shall be issued in FORM GST APL-02 by the appellate authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgement shall be considered as the date of filing of appeal. The second proviso thereto, further provides that where the said self-certified copy of the decision or order is not submitted within a period of seven days from the date of filing of FORM GST APL-01, the date of submission of such copy shall be considered as the date of filing of appeal. The explanation thereto says that, the appeal shall be treated as filed only when the final acknowledgement, indicating the appeal number, is issued.

7. The petitioner, under a mistaken impression, filed the appeal physically on 22.04.2024. The DRC-07 contains certain defects. Though the DRC-07 did not contain the interest and penalty, but the petitioner preferred the appeal with *bona fide* intention physically against the order-in-original. Upon filing of the appeal physically, the

appeal number was also issued, though the appeal did not contain the DRC-07. Because of this *bona fide* confusion, the appellate authority treated the appeal filed manually and held it to be barred by 23 days of delay. If the order-in-original levied penalty and interest also upon the petitioner, the summary of the order ought to have reflected it. Therefore, there was an inherent defect in the proceedings which should inure to the benefit of the assessee tax payer. There was also some delay in uploading of the summary of the order in DRC-07. Ordinarily, the summary of the order is uploaded on the same day or the following day of the passing of the order-in-original. The period of limitation is counted from the date of communication of the order-in-original. The appeal is preferred enclosing the order-in-original and the summary of the order also. The appeal, in the instant case, has been dismissed taking a very strict view of the matter when the department was also in error in not uploading the summary of the order timely and the summary did not reflect the penalty and the interest part which was imposed as per the order-in-original.

8. Taking into consideration all these facts and circumstances, we are of the considered view that the rejection of the appeal on grounds of delay of 23 days was not proper on the part of the appellate authority.

9. Accordingly, the impugned order-in-appeal is set aside. The matter is remitted to the appellate authority to take a fresh decision on the appeal in accordance with law, within a reasonable period.

10. The writ petition is accordingly disposed of. However, there shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

SD/-A. SRINIVASA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Additional Commissioner (Appeals-1), O/o. The Commissioner of Customs & Central Tax, Appeals-I, Hyderabad Commissionarate, 7th floor, GST Bhavan, L.B.Stadium, Basheerbagh, Hyderapad-500004.
2. The Assistant Commissioner of Central Tax, Narayanpet Range, Mahabubnagar GST Division, Rangareddy GST Commissionerate. Hyderabad.
3. The Superintendent of Central Tax, Narayanpet Range, Mahabubnagar GST Division, Rangareddy GST Commissionerate. Hyderabad.
4. The Principal Secretary, Revenue (CT) Department, State of Telangana, Telangana Secretariat, Hyderabad
5. The Chairman, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs, North Block, Central Secretariat, New Delhi 100 001
6. One CC to SRI KOHIR BHASKAR REDDY, Advocate [OPUC]

7. One CC to SRI DOMINIC FERNANDES, Senior Standing Counsel for CBIC [OPUC]

8. Two CCs to GP for Commercial Taxes, High Court for the State of Telangana at Hyderabad. [OUT]

9. Two CD Copies

MP
BS

HIGH COURT

DATED:23/09/2025



ORDER

WP.No.28221 of 2025

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

(12)

27/10/25