2026:PHHC:013396-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-35491 of 2025 (O&M)
Date of Decision: 28.01.2026

M/s Kamal Ideal Infratech Private Limited

..... Petitioner

Versus

Union of India and another

..... Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE RAMESH CHANDER DIMRI

Present: Mr. Raj Kumar, Advocate
for the petitioner.

Ms. Mamta Singla Talwar, DAG., Haryana.

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LISA GILL, J.

1. Prayer in this writ petition is for setting aside order dated 07.11.2023, issued under Section 74 of the Central Goods and Services Tax Act, 2017 (for short 'the Act') as well as for setting aside show-cause notice dated 09.08.2023 and AMST-10 dated 27.01.2023 passed by the respondents.

2. Brief facts as pleaded in the writ petition are that petitioner claims to be a company incorporated under Companies Act 2013 (for short '2013 Act') and registered under the Central Goods and Services Tax Act, 2017 (for short 'CGST Act') and Haryana Goods and Services Tax Act, 2017 (for short 'HGST Act). It is engaged in business of construction and infrastructure development and is stated to be compliant with all statutory requirements under the GST regime, including filing of returns and payment

of taxes. Petitioner availed Input Tax Credit (ITC) in the October 2017 and paid its output tax liability in the GST filing months of March 2018 and April 2018 against ITC taken in October 2017. Statutory returns were filed. However, Form ASMT-10 dated 27.01.2023, was issued alleging discrepancies in ITC claimed by petitioner. Show cause notice was then issued in Form GST DRC-01 dated 09.08.2023, under Section 74 of CGST Act. However, the petitioner, it is stated did not come to know of the same as it had failed to access or track electronic notices uploaded on GST portal due to sudden illness of its accountant. Full-time accountant was appointed in the year 2024 upon which petitioner became aware of the impugned proceedings and order 07.11.2023 passed under Section 74 CGST Act.

3. Present writ petition challenging the impugned notice and order was then filed in November 2025.

4. Learned counsel for petitioner vehemently argues that there is blatant violation of principles of natural justice inasmuch as ASMT-10 dated 27.01.2023 and show-cause notice dated 09.08.2023 were not served upon the petitioner. It is submitted that though the same were uploaded on the portal, petitioner due to post COVID-19 business disruption, did not access the online communications and became aware of said proceedings only in the year 2024 after appointment of a full-time accountant. The department, it is submitted should have served the petitioner through physical mode. Petitioner, was statedly under a bona fide belief that it had deposited all its dues, therefore present writ petition should be entertained and impugned order and show cause notices etc., be set aside. It is further argued that proceedings are time barred and respondents have incorrectly invoked

Section 74 of CGST Act which would be applicable only in case of fraud, wilful misstatement of suppression of facts. It is thus prayed that this writ petition be allowed.

5. Learned counsel for respondents (on advance notice) has opposed the writ petition while submitting that petitioner itself has duly accepted that it was served with the notices in question. No reply etc., had ever been filed. Petitioner did not file any appeal challenging the said order dated 07.11.2023 but has suddenly chosen to file the present writ petition in November 2025. It is submitted that impugned order dated 07.11.2023 has been correctly passed. Dismissal of writ petition is sought.

6. We have heard learned counsel for parties and have perused the file with their able assistance.

7. Admittedly, petitioner was issued show cause notice ASMT-10 on 27.01.2023 alleging following discrepancies:-

> "a) The taxpayer has declared its liability under section 37 of CGST/HGST Act amounting Rs. 4062126/- whereas the liabilities discharged under section 39 of the CGST/HGST Act are Rs. 4062126/- Therefore there is prima facie under reporting of Rs. 0/-.
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> b) The taxpayer has claimed ITC of Rs. 3964900/- in returns under section 39 in form GSTR3b, whereas the ITC verifiable from GSTR2A is Rs. 0/- Therefore there is prima facie difference of Rs. 3964900/-.
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> c) Reversal of ITC of Rs. 0/- as per Rule 42 and other reversal of Rs. 0/- declared in GSTR9 of financial year 2017-18 needs explanation.
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> d) You have availed distribution of transactional Cen Vat credit of Rs.0/- for the period June, 2017 and transactional Cen Vat credit of Rs. 0/-for the period November, 2017 in your

Electronic Credit ledger, which needs the valid order or authority concerned & substantiating documents.

e) Your claim of ITC Rs. 0/ in column no. 13 of GSTR9 for the previous year needs explanation substantiating documents.

f) The Audit Account books not uploaded with GSTR9C

g) Explain the reason of non-deposition of late fee and interest accrue on account of that due to late filing of return, return filling details are given below:"

8. No reply was filed by petitioner. Show cause notice GST DRC-01 was then issued to petitioner on dated 09.08.2023, wherein it is stated that there is an element of wilful misstatement/suppression of facts on the part of the registered tax payer (petitioner) to which again petitioner did not respond. Impugned order dated 07.11.2023 was passed by Excise & Taxation Officer-cum-Proper Officer, Ward 4, Sonipat, while duly noting that petitioner did not file any reply nor appeared after receipt of ASMT 10 as well as show cause notice dated 09.08.2023 in Form DRC-01. Matter was accordingly decided *ex parte*.

9. Argument raised by learned counsel for petitioner is that there is a blatant violation of principles of natural justice because ASMT-10 dated 27.01.2023 and show cause notice dated 09.08.2023 were never served upon it, thus, effective opportunity of hearing was not afforded despite having paid the taxes earlier. Plea taken by petitioner is that due to post COVID business disruption, petitioner failed to access or track electronic notices issued on GST portal due to sudden illness of its accountant and came to know about the show cause notice and impugned order only in the year 2024.

10. At this stage, we take note of the averment in the writ petition in para 1(viii) as under:-

> "That the petitioner had not filed reply to the Show Cause Notice due to petitioner bona fide believed that ITC has been reversed due to non receipt of pending tax invoice and the liability of tax also has been paid in the month of March 2018 and April 2018 hence there was no suppression, fraud, or willful misstatement, and that the ITC and tax payments were fully compliant with statutory provisions."

11. It is apparent that there is a contradictory pleading advanced by petitioner. Once petitioner itself did not come forward to either file reply or even asked for personal hearing, it cannot turn around to say that there is a violation of principles of natural justice. It is further to be noticed that it is the case of petitioner itself that notices and impugned order dated 07.11.2023 had been uploaded on the portal. Even if that was to be ignored, it is the case of petitioner itself that it came to know about the said notices and order in the year 2024 when a full-time accountant was appointed.

12. We take note of the fact that present writ petition has been filed in November 2025. Even if the stand taken by petitioner is to be believed, there is not a whisper in the writ petition as to what prevented it from taking necessary steps immediately on coming to know of the proceedings. Petitioner, admittedly, had the statutory remedy of appeal to challenge impugned order dated 07.11.2023 which was admittedly not availed of. Present writ petition has been filed after much delay for which there is no explanation leave alone a reasonable explanation. Doubtlessly, there is no limitation for filing a writ petition, but at the same time it is a settled position that necessary steps for filing the writ petition should also be taken

within a reasonable period of time. Gainful reference in this regard can be made to judgments of Hon'ble the Supreme Court in **Bharat Coking Coal Ltd. and others vs. Shyam Kishore Singh (2020) 3 SCC 411; Union of India and others vs. N. Murugesan and others (2022) 2 SCC 25; State of Orissa and another vs. Laxmi Narayan Das (Dead) through LRs and others 2023 LiveLaw (SC) 527 and Bichitrananda Behera vs. State of Orissa and others 2023 AIR (SCC) 5064**.

13. It has been held by Hon'ble the Supreme Court in **Chairman, State Bank of India vs. M J James, (2022) 2 SCC 301** as under:-

> " What is a reasonable time is not to be put in a straitjacket formula or judicially codified in the form of days, etc. as it depends upon the facts and circumstances of each case. A right not exercised for a long time is nonexistent. Doctrine of delay and laches as well as acquiescence are applied to non-suit the litigants who approach the court /appellate authorities belatedly without any justifiable explanation for bringing action after unreasonable delay. In the present case, challenge to the order of dismissal from service by way of appeal was after four years and five months, which is certainly highly belated and beyond justifiable time. Without satisfactory explanation justifying the delay, it is difficult to hold that the appeal was preferred within a reasonable time."

14. This position has been reiterated by Hon'ble the Supreme Court in the case of **Bichitrananda Behera (supra).** In the case of **Rikhab Chand Jain Vs. Union of India**, **2025 SCC Online SC 2510**, Hon'ble the Supreme Court referred to its earlier decision in **A.V. Venkateswaran, Collector of Customs, Bombay Vs. Ramchand Sobhraj Wadhwani and another, 1961 AIR Supreme Court 1506** as under :-

"12. That apart, the majority view in a previous constitution Bench in **A. V Venkateswaran, Collector of Customs, Bombay v. Ramchand Sobhraj Wadhwani AIR 1961 SC 1506** reads thus:

> "14. ..., we must express our dissent from the reasoning by which the learned Judges of the High Court held that the writ petitioner was absolved from the normal obligation to exhaust his statutory remedies before invoking the jurisdiction of the High Court under Article 226 of the Constitution. If a petitioner has disabled himself from availing himself of the statutory remedy by his own fault in not doing so within the prescribed time, he cannot certainly be permitted to urge that as a ground for the Court dealing with his petition under Article 226 to exercise its discretion in his favour. Indeed, the second passage extracted from the judgment of the learned C.J. in Mohammed Nooh case with its reference to the right to appeal being lost 'through no fault of his own' emphasizes this aspect of the Rule."
>
> (emphasis ours)
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> In essence, this Court was of the opinion that once a petitioner has due to his own fault disabled himself from availing a statutory remedy, the discretionary remedy under Article 226 may not be available."

15. It was further held as under:-

"13. Although there is no period of limitation for invoking the writ jurisdiction of a High Court under Article 226, all that the courts insist is invocation of its jurisdiction with utmost expedition and, at any rate, within a "reasonable period". What would constitute "reasonable period" cannot be put in a straight-jacket, and it must invariably depend on the facts and circumstances of each particular case. Nonetheless, the period of limitation prescribed by an enactment for availing the

alternative remedy AIR 1961 SC 1506 provided thereunder in certain cases does provide indication as to what should be the "reasonable period" within which the writ jurisdiction has to be invoked."

15. In the given factual matrix, in our considered opinion, writ petition is hit by delay and laches. We, therefore, do not find any ground to cause interference in this matter in exercise of jurisdiction under Article 226 of the Constitution of India.

16. No other argument has been addressed.

17. Keeping in view facts and circumstances as above, writ petition is dismissed being hit by delay and laches. Pending application(s), if any, stand(s), disposed of accordingly.

(LISA GILL)
JUDGE

(RAMESH CHANDER DIMRI)
JUDGE

28.01.2026
s.khan

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No