APHC010530082024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3543]

WEDNESDAY, THE 8th DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION No: 27562 of 2024

Between:

1. M/S SUNDARAM ALLOYS LIMTED, REPRESENTED BY SHRI. ROHIT SHAW PLOT No.13, APSEZ, ATCHUTAPURAM MANDAL, VISAKHAPATNAM, ANDHRA PRADESH - 531 011.

...PETITIONER

AND

1. THE ADDITIONAL COMMISSIONER OF CENTRAL TAX, O/o.THE COMMISSIONER OF CENTRAL TAX CUSTOMS (APPEALS), D.No.3-30-15, RING ROAD, GUNTUR, ANDHRA PRADESH - 522 006.
2. THE DEPUTY COMMISSIONER OF CENTRAL TAX, VISAKHAPATNAM SOUTH CGST DIVISION, PLOT No.36A, PANDURANGAPURAM, R.K.BEACH ROAD, WALTAIR WARD, VISAKHAPATNAM, ANDHRA PRADESH - 530 003.
3. UNION OF INDIA, DEPARTMENT OF REVENUE, REPRESENTED BY ITS SECRETARY (REVENUE), NORTH BLOCK, NEW DELHI.
4. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PRINCIPAL SECRETARY, REVENUE DEPARTMENT (COMMERCIAL TAX), A.P. SECRETARIAT, VELEGAPUDI.

...RESPONDENT(S):

Counsel for the Petitioner:
Mr.ANIL KUMAR BEZAWADA

Counsel for the Respondent(S):
Mr.MANTHA RAJENDRA

The Court made the following order: *(Per Hon'ble Sri Justice Ninala Jayasurya)*

Heard learned counsel for the petitioner and learned counsel for the respondents 1 and 2.

2. Petitioner, engaged in the business of manufacturing Ferro Alloys, is registered with GST Department *vide* GSTIN: 37AAMCS5216K3ZW and regular in filing the monthly GST returns and depositing the appropriate taxes. As the petitioner has utilized the inputs and input services for effecting export transactions, input tax credit was accumulated in its Electronic Credit Ledger. Therefore, it applied for refund of the input tax credit in terms of Section 54 of Central Goods and Services Tax Act, 2017 (for short 'the CGST Act') r/w Rule 89 of CGST Rules, 2017 for the period from 01.04.2020 to 31.03.2021. Claim of the petitioner seeking refund was rejected *vide* proceedings of the 2nd respondent dated 11.08.2023. Petitioner availing the statutory remedy, filed appeal before the 1st respondent with a delay of 39 days and that the same was rejected *vide* order in Appeal dated 26.06.2024. Hence, the present writ petition.

3. Learned counsel for the petitioner made submissions with reference to various averments / contentions raised in the writ petition. Apart from merits of the case, by referring to the material on record including the Certificate issued by the concerned Doctor, he submits that an appeal against order of rejection of refund could not be filed in time as the authorized person of the petitioner was suffering from serious ill health and the learned Appellate Authority

without considering the said aspect rejected the appeal. He submits that remedy of appeal is a valuable statutory right and the learned Appellate Authority ought to have appreciated the said aspect and keeping in view that the delay is very short and supported by Medical Certificate, ought to have condoned the same. He also submits that in fact, the Appellate Authority allowed the appeals filed against rejection of refund of input tax credit for the periods from April, 2021 to March, 2022 and April, 2022 to March, 2023 by separate orders dated 29.12.2025. Placing reliance on the decision of a Co-ordinate Bench of this Court reported in **Shaik Abdul Azeez v. State of Andhra Pradesh**[1]**,** learned counsel seeks to allow the Writ Petition by setting aside the orders impugned.

4. On the other hand, Mr.Rajendra Mantha, learned counsel for respondents 1 & 2 made submissions to sustain the orders under challenge. He submits that an elaborate counter-affidavit is filed on behalf of the Department refuting the various contentions raised in the writ petition. He also submits that the Appellate authority / 1st respondent has no discretion to condone the delay in filing the appeal against the order passed by the 2nd respondent beyond the period prescribed under the Statute. While drawing the attention of this Court to the relevant portion of the order of the appellate authority (para No.9 etc.), he submits that the order is well reasoned and in fact, against the same, the petitioner has a remedy of appeal before the Tribunal under Section 112 (1) of the CGST Act. Therefore, the writ petition is liable to be dismissed even on this ground.

[1] (2024) 15 Centax 321 (A.P.)

5. This Court has considered the submissions made and perused the material on record.

6. At the outset, it may be appropriate to mention that though several contentions were raised in the writ petition, this Court deems it not necessary to appreciate the same. Suffice to state that the primary argument advanced is that the Appellate Authority has not considered the matter in the proper perspective by taking into consideration the reason for the delay assigned by the petitioner with supporting material. Though the Appellate Authority noted the aspects of the reasons for delay, there was no independent examination of the same with reference to Medical Certificate produced by the petitioner and obviously the delay was considered with reference to Section 107 (4) of the Act, which puts a bar for condonation of delay beyond the condonable period. However, as rightly contended by the learned counsel for the petitioner, the appeal is a valuable statutory right and the delay in not filing the appeal is explained by supporting material and thereby sufficient cause is established and in the interest of justice, the delay can be condoned.

7. In **Mastek Engineering (P) Ltd., v. Appellate Authority and Additional Commissioner, State Tax[2],** the appeal preferred by the petitioner / appellant with a delay of 73 days was dismissed. While setting aside the same, the learned Division Bench *inter alia* opined as follows:

> "11.The impugned order in view of Section 107 of APGST Act does not suffer from any illegality, as the appellate authority cannot condone the delay beyond statutory condonable period but considering that there was sufficient cause for

[2] (2024) 17 Centax 151 (A.P.)

> not preferring appeal in time, the interest of justice requires condonation of the delay and adjudication of the matter on merit by Appellate Authority. The appeal is a valuable statutory right. In exercise of the writ jurisdiction to do complete justice and provide opportunity of hearing on merits of the appeal, we condone the delay by imposing costs of Rs.20,000/-. The appellate authority shall consider and decide the appeal on merits in accordance with law, expeditiously. The costs shall be deposited in two (02) weeks from the date of receipt of copy of this order, before the appellate authority."

8. In the light of the above decision and the facts and circumstances, the order of the Appellate Authority dated 26.06.2024 is set aside. The Appellate Authority shall take up the appeal and pass appropriate orders thereon considering the merits and after affording due opportunity to the petitioner.

9. Accordingly, the writ petition is disposed of. No costs. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D.SEKHAR

Dt.08.07.2026
BLV

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

&

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

W.P.No.27562 of 2024

Dt: 08.07.2026

BLV