IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

FRIDAY, THE 10TH DAY OF JULY 2026 / 19TH ASHADHA, 1948

WP(C) NO. 7284 OF 2023

PETITIONER:

MSD PHARMACEUTICALS PVT. LTD.,
229, 2ND FLOOR, TRADE CENTRE PREMISES CO OP SOCIETY LTD., BANDRA KURLA COMPLEX, BANDRA EAST, MUMBAI 400051, REPRESENTED BY ITS AUTHORISED SIGNATORY (MR. DEEPAK MOHANDAS ADIGE).

BY ADVS.
SRI.KARTHIK S. NAIR
SRI.PRABHAKARAN P.M.

RESPONDENTS:

1 ASSISTANT COMMISSIONER,
STATE TAX SPECIAL CIRCLE III,
SGST DEPARTMENT, M G ROAD THEVARA JUNCTION,
THEVARA, PERUMANOOR, ERNAKULAM - 682015.

2 COMMISSIONER OF STATE TAX, KERALA,
GST DEPARTMENT, TAX TOWER, KARAMANA,
THIRUVANANTHAPURAM - 695002.

3 JOINT COMMISSIONER (APPEALS-I),
SGST DEPARTMENT, M G ROAD THEVARA JUNCTION,
THEVARA, PERUMANOOR, ERNAKULAM - 682015.

4 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO FINANCE

AND TAX DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM - 695001

BY ADV.
SRI.MOHAMMED SHAFI K., GOVERNMENT PLEADER.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10.07.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner is an assesee under the provisions of the Central Goods and Services Tax/ State Goods and Services Tax Act, 2017. The dispute in this writ petition is with reference to an application seeking refund filed under Section 54 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the Act'). According to the petitioner, the refund application has been presented within the statutory prescription of two years as evidenced by Ext.P12 receipt, as per which, the application is filed admittedly on 12.02.2019. Straightaway it may be noticed that the application acknowledged by Ext.P12 is the online application filed under the statute. However, this application has been processed by the impugned order at Ext.P2 with reference to the mandate under Rule 97A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the Rules') concluding that the petitioner has chosen to file the "hard copy" of the application only on 14.11.2019, which is well beyond the statutory prescription of two years. Stating this reason, the application seeking refund with respect to the assessment year 2017-18 has been rejected by the impugned order at Ext.P2.

2. Heard Sri.Karthik S.Nair, the learned counsel for the petitioner, as well as Sri.Mohammed Shafi K., the learned Government Pleader.

3. The learned Government Pleader, however, submits that the order at Ext.P2 was challenged by the petitioner by filing an appeal under Section 107 of the Act, and that the Appellate Authority has also rejected the same by Ext.P1. Therefore, according to the learned Government Pleader, it is for the petitioner to file a further appeal to the Tribunal under Section 112 of the Act.

4. Sri.Karthik would, however, point out that the order of the Appellate Authority at Ext.P1 is also a non-speaking one, insofar as the contention with reference to the online filing of the refund application, as has been specifically raised in ground Nos.2 and 3, has not been considered by the Appellate Authority.

5. In any event, I am of the opinion that, since the issue is with reference to the processing of a refund application, which appears to have been rejected with reference to the mandate under Rule 97A, the question requires to be considered by this

Court, since, admittedly, the writ petition has been pending consideration before this Court for more than three years. Even if an appeal has been preferred to the Tribunal, ultimately, the afore matter requires to be considered with reference to the mandate under Rule 97A, and if it is found that the matter requires to be reconsidered, the files requires to be remitted to the original authority.

6. Hence, even on the face of the provisions of Section 112 of the Act, this Court proceeds to consider the legality or otherwise of the findings contained in Ext.P2.

7. As already noticed, Ext.P2 has been issued only because Rule 97A provided for the filing of a manual application. Rule 97A of the Rules provides as under;

> "97A. Manual filing and processing. – Notwithstanding anything contained in this Chapter, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to these rules."

A reading of the afore provision would show that the rule making authority has only thought of providing that a manual application can also be presented with reference to a refund claim. This is made clear by use of the word "include" under Rule 97A. Therefore, merely for the reason that in tune with Rule 97A, the petitioner chose to file a manual refund application on 14.11.2019, I am of the opinion that the rejection of the application seeking refund was illegal and arbitrary. The application seeking refund ought to have been considered with reference to the online application admittedly acknowledged on 12.02.2019.

8. Hence, I am of the opinion that the matter requires a revisit at the hands of the 1st respondent herein.

Therefore, this writ petition would stand allowed, setting aside Ext.P2. The 1st respondent is directed to consider the refund application in accordance with law. The application requires to be processed and disposed of, as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a copy of this judgment.

Sd/-

HARISANKAR V. MENON, JUDGE

anm

APPENDIX OF WP(C) NO. 7284 OF 2023

PETITIONER'S EXHIBITS

Exhibit P1	A TRUE PHOTOCOPY OF THE IMPUGNED ORDER DATED 27.10.2022 IN GST APPEAL NO. 232/20.
Exhibit P2	A TRUE PHOTOCOPY OF THE ORDER NO. 32AAEC M1106C1ZE/67/2019-20 DATED 17.02.2020.
Exhibit P3	A TRUE COPY OF FORM GSTR-1 OF KERALA REGISTRATION FOR JULY 2017.
Exhibit P4	A TRUE COPY OF FORM GSTR-3B OF KERALA REGISTRATION FOR JULY 2017.
Exhibit P5	A TRUE COPY OF THE CHALLAN BEARING CPIN 17083200015418 DATED 18.08.2017.
Exhibit P6	A TRUE COPY OF THE CHALLAN BEARING CPIN 17083200015373 DATED 18.08.2017.
Exhibit P7	A TRUE COPY OF NOTIFICATION NO. 55/2017 - CENTRAL TAX DATED 15.11.2017.
Exhibit P8	A TRUE COPY OF THE SAID CIRCULAR NO 17/17/2017-GST DATED 15.11.2017.
Exhibit P9	A TRUE COPY OF THE SAID CIRCULAR NO. 24/24/2017 DATED 21.12.2017.
Exhibit P10	A TRUE COPY OF THE SAID CIRCULAR NO. 79/53/2018 DATED 31.12.2018.
Exhibit P11	A TRUE PHOTOCOPY OF THE AFORESAID GST REFUND APPLICATION IN FORM RFD-01A DATED NIL.
Exhibit P12	A TRUE COPY OF THE ARN RECEIPT DATED 12.02.2019.
Exhibit P13	TRUE COPY OF THE FORM REG-16 DATED 08.06.2019.
Exhibit P14	TRUE COPY OF THE FORM REG-19 DATED 23.06.2020.
Exhibit P15	A TRUE COPY OF THE LETTER DATED 12.11.2019.

Exhibit P16	**A TRUE COPY OF THE EMAIL DATED 20.12.2019.**
Exhibit P17	**A TRUE PHOTOCOPY OF THE ACKNOWLEDGEMENT FORM IN GST RFD-02 NO. 67/19-20 DATED 20.12.2019.**
Exhibit P18	**A TRUE PHOTOCOPY OF THE SHOW CAUSE NOTICE DATED 21.12.2019.**
Exhibit P19	**A TRUE COPY OF THE REPLY DATED 03.01.2020.**
Exhibit P20	**A TRUE COPY OF THE APPEAL IN FORM GST-APL-01 DATED 25.06.2020.**