2026:HHC:40330

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Civil Writ Petition Nos.3533 & 3551 of 2025

Date of Decision: 16.09.2026

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1. CWP No.3533 of 2025

M/s Immacule Lifesciences Pvt. Ltd. .....Petitioner

Versus

State of H.P. and Others .....Respondents

2. CWP No.3551 of 2025

M/s Immacule Lifesciences Pvt. Ltd. .....Petitioner

Versus

State of H.P. and Others .....Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge
Hon'ble Mr. Justice Yogesh Jaswal, Judge

Whether approved for reporting? ***Yes.***

For the Petitioner(s): Mr. Vishal Mohan, Senior Advocate, with Mr. Arsh Chauhan and Mr. Akshit Rana, Advocates, for the petitioner(s), in both the petitions.

For the Respondents: Mr. Sushant Keprate, Additional Advocate General, for respondent No.1/State, in both the petitions.

Mr. Prashant Manhans, Advocate, vice Mr. Shiv Pal Manhans, Senior Panel Counsel, for respondent No.2, in both the petitions.

Mr. Vijay Kumar Arora, Senior Advocate, with Mr. Hitansh Raj, Mr. Gaurav Kumar and Ms. Avantika Bhandari, Advocates, for respondents No.3 to 5, in both the petitions.

Ajay Mohan Goel, J. *(Oral)*

By way of these writ petitions, the petitioner has, *inter alia*, prayed for the following reliefs:

CWP No.3533 of 2025

"(i) Issue a writ in the nature of certiorari for quashing the Acknowledgement/order dated 16.12.2024 (Annexure P-19) passed by Respondent No.5 in Form GST APL-02 rejecting the appeal dated 29.11.2024 (Annexure P-18) filed by the petitioner in Form GST APL-01 on the ground of delay being illegal and contrary to the provisions of the Central GST Act, 2017 and also in violation of the principles of natural justice, as no opportunity of hearing has been afforded to the petitioner before rejection of the said appeal and the time period consumed in writ petition before this Hon'ble Court has not been excluded by the 1st Appellate Authority;

(ii) Issue a writ in the nature of certiorari for quashing of circular dated 18.11.2019 (Annexure P-1) issued by the CBIC, i.e. Respondent No.4 to the extent a condition has been imposed in para 8 of the said circular to apply the Refund Applications in a chronological manner, being without jurisdiction and in contravention to the provisions of Section 54 of the Central GST Act, 2017 and is also an act of excessive use of delegated legislation.

(iii) Issue a writ in the nature of certiorari for quashing of Refund Rejection Orders dated 28.03.2024 (Annexure P-6), 09.05.2024 (Annexure P-12) and 10.07.2024 (Annexure P-16) whereby the Refund Applications dated 20.02.2024 (Annexure P-3), 26.03.2024 (Annexure P-4) and 15.05.2024 (Annexure P-5) for the periods January 2022, March 2022 and April 2022 to March 2023 respectively have been rejected by relying upon the Circular dated 18.11.2019 (Annexure P-1), being illegal and in contravention to the provisions of the Central GST Act, 2017 and also for the reason that the same is in contravention to the Circular dated 31.03.2020 (Annexure P-2);

(iv) Issue a writ in the nature of mandamus directing Respondent No.3 to issue refunds to the petitioner for the periods January 2022, March 2022 and April 2022 to March 2023 respectively in pursuance to the Refund Applications dated Refund Applications Refund Applications dated 20.02.2024 (Annexure P-3), 26.03.2024 (Annexure P-4) and 15.05.2024 (Annexure P-5);"

CWP No.3551 of 2025

"i) Issue a writ in the nature of certiorari for quashing the Acknowledgement/order dated 04.02.2025 (received 07.02.2025) (Annexure P-19) passed by Respondent No.5 in Form GST APL-02 rejecting the appeal dated 30.11.2024 (Annexure P-18) filed by the petitioner in Form GST APL-01 without mentioning any reason at all, being illegal and contrary to the provisions of the Central GST Act, 2017 and also in violation of the principles of natural justice, as no opportunity of hearing has been afforded to the petitioner before rejection of the said appeal;

ii) Issue a writ in the nature of certiorari for quashing of circular dated 18.11.2019 (Annexure P-1) issued by the CBIC, i.e. Respondent No.4 to the extent a condition has been imposed in para 8 of the said circular to apply the Refund Applications in a chronological manner, being without jurisdiction and in contravention to the provisions of Section 54 of the Central GST Act, 2017 and is also an act of excessive use of delegated legislation.

iii) Issue a writ in the nature of certiorari for quashing of Refund Rejection Orders dated 28.03.2024 (Annexure P-6), 09.05.2024 (Annexure P-12) and 10.07.2024 (Annexure P-16) whereby the Refund Applications dated 20.02.2024 (Annexure P-3), 26.03.2024 (Annexure P-4) and 15.05.2024 (Annexure P-5) for the periods January 2022, March 2022 and April 2022 to March 2023 respectively have been rejected by relying upon the Circular dated 18.11.2019 (Annexure P-1), being illegal and in contravention to the provisions of the Central

GST Act, 2017 and also for the reason that the same is in contravention to the Circular dated 31.03.2020 (Annexure P-2);

iv) Issue a writ in the nature of mandamus directing Respondent No.3 to issue refunds to the petitioner for the periods January 2022, March 2022 and April 2022 to March 2023 respectively in pursuance to the Refund Applications 20.02.2024 (Annexure P-3), 26.03.2024 (Annexure P-4) and 15.045.2024 (Annexure P-5);"

2. Learned Senior Counsel for the petitioner has submitted that the primary grievance of the petitioner arises from Annexure P-18 and P-19, in terms whereof, an appeal preferred by the present petitioner against the order passed by the authority under Section 107 of the Central Goods and Services Tax Act, 2017, which being time-barred was accompanied with an application for condonation of delay, has been mechanically rejected by the statutory appellate authority without applying its quasi-judicial mind and without passing a speaking order.

3. On the other hand, learned Senior Counsel for the respondent submits that as the appeal preferred by the petitioner was time-barred and beyond the statutory period, as is provided in Section 107(4), therefore, such time-barred appeals are not accepted by the system, and the same was rightly rejected by the appellate authority.

4. Having heard learned Senior Counsels for the parties and having perused the impugned annexures, we are of the considered view

that the mode and manner in which the appeal of the petitioner has been rejected in both the matters, is not sustainable in law.

5. The petitioner had preferred both the appeals under Section 107 of the Central Goods and Services Tax Act, 2017. Section 107 of the Act reads as under:

> "**107. Appeals to Appellate Authority.**
>
> (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.
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> (2) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.
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> (3) Where, in pursuance of an order under sub-section (2), the authorised officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the

provisions of this Act relating to appeals shall apply to such application.

(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.

(5) Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.

(6) No appeal shall be filed under sub-section (1), unless the appellant has paid-

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, [subject to a maximum of twenty-five crore rupees,] [Inserted by Act No. 31 of 2018, dated 29.8.2018.] in relation to which the appeal has been filed.

(7) Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.

(8) The Appellate Authority shall give an opportunity to the appellant of being heard.

(9) The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(10) The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:

Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74.

(12) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision.

(13) The Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:

Provided that where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

(14) On disposal of the appeal, the Appellate Authority shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.

(15) A copy of the order passed by the Appellate Authority shall also be sent to the jurisdictional Commissioner or the authority designated by him in this behalf and the jurisdictional Commissioner of State tax

> or Commissioner of Union Territory Tax or an authority designated by him in this behalf.
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> (16) Every order passed under this section shall, subject to the provisions of section 108 or section 113 or section 117 or section 118 be final and binding on the parties."

6. We are of the considered view that once an appeal has been preferred by an aggrieved person before the appellate authority under Section 107 of the CGST Act, be it accompanied by an application seeking condonation of delay or otherwise, the appeal mandatorily has to be placed before the appellate authority. Thereafter, an appropriate order has to be passed thereupon by the appellate authority after hearing the aggrieved party.

7. We are not suggesting as to what order has to be passed by the appellate authority, but what this Court is observing is that a time-barred appeal or an appeal which may otherwise be not maintainable cannot be rejected mechanically by the appellate authority or its office. Rejection thereof can only be by way of a quasi-judicial and speaking order.

8. This is for the reason that the order rejecting or accepting the application or the appeal, obviously, should contain reasons for the same. If a party is aggrieved by the said order, then it should know the reasons leading to the order. On the other hand, an order, *san* any reason, is no order in the eyes of law.

9. Hon'ble Supreme Court of India has been pleased to hold in umpteen number of cases that an order to be passed by a quasi-judicial authority has to be a reasoned and a speaking order. In fact, now the judgments of the Hon'ble Supreme Court are to the effect that even an administrative order, which results in deciding the rights of the parties, has to be a speaking and a reasoned order. *(See:* ***Pankaj Garg Vs. Meenu Garg and Another****, (2013) 3 SCC 246.) (See:* ***Kranti Associates Pvt. Ltd. and Another Vs. Masood Ahmed Khan and Others****, (2010) 9 SCC 496,* ***Basudev Dutta v. State of West Bengal & Others****, 2024 SCC Online 3616).* (See: ***Ravi Yashwant Bhoir v. District Collector, Raigad & Ors.****, (2012) 4 SCC 407,* ***Delhi Transport Corporation v. D.T.C. Mazdoor Congress****, 1991 Supp (1) SCC 600)*

10. In *Basudev Dutta* (supra), Hon'ble Supreme Court has been pleased to hold that it is settled law that every administrative or quasi-judicial order must contain the reasons. Such reasons go a long way in not only ensuring that the authority has applied his mind to the facts and the law, but also provide the grounds for the aggrieved party to assail the order in the manner known to law and in the absence of any reasons, it also poses a difficulty for the judicial authorities to test the correctness of the order or exercise its power of judicial review.

After referring to its earlier judgments on the issue, Hon'ble Supreme Court in the said judgment has been pleased to hold in para 47 thereof as under:-

> "47. Summarising the above discussion, this Court holds:
> a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.
> (b) A quasi-judicial authority must record reasons in support of its conclusions.
> (c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.
> (d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.
> (e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.
> (f) Reasons have virtually become as indispensable a component of a decision-makin
> g process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.
> (g) Reasons facilitate the process of judicial review by superior courts.
> (h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.
> (i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This

is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decisionmakers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37]).

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)], wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process."

11. Herein, in terms of Annexure P-18 and P-19, which are just acknowledgments of the submission of the appeal, which according to

us is just a ministerial job, contains the intimation of rejection of the appeal of the petitioner, which is not acceptable in law. Why this has been done is left open for all to speculate.

12. We again reiterate that this is not how statutory appeals have to be dealt with by appellate authorities.

13. As observed hereinabove also, an appeal preferred has to be placed before the appellate authority and taken up on the quasi-judicial side, and a speaking and reasoned order has to be passed thereupon after hearing the party concerned. As in the present case, this procedure has not been followed, therefore, the mode and manner in which the appeals of the petitioner stand rejected in both the petitions is not sustainable in the eyes of law.

14. Accordingly, the intimation of rejection of the appeal of the petitioner vide Annexure P-18 and P-19, being bad in law, quashed and set aside in both the petitions. The appellate authority is directed to restore the appeals of the petitioner and consider the same along with applications filed for condonation of delay, if any, on the quasi-judicial side, and after giving an opportunity of hearing to the petitioner, appropriate orders be passed thereupon.

15. At this stage, learned Senior Counsel for the petitioner submits that as the petitioner in the present petition had also raised

the issue of the legality of circular issued by CBIC dated 18.11.2019, this issue be kept open with liberty to the petitioner to agitate the same, if circumstances so warrant in fresh proceedings. Said liberty is granted to the petitioner.

The petitions stand disposed of in the aforesaid terms, along with all pending applications, if any.

(Ajay Mohan Goel),
Judge

(Yogesh Jaswal),
Judge

September 16, 2026
Rajeev Raturi