

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.150 of 2024

The ICFAI University, Tripura

....Petitioner(s)

Versus

The Ld. Joint Commissioner and Ors.

....Respondent(s)

For Petitioner(s)	:	Mr. H. Deb, Sr. Advocate Mr. G. Shivadass, Sr. Advocate Mr. M.T. Srinivasa Rao, Advocate
For Respondent(s)	:	Mr. P. Datta, Advocate

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE ARINDAM LODH**

ORDER

13.03.2024

Heard Mr. G. Shivadass, learned senior counsel assisted by Mr. M.T. Srinivasa Rao, learned counsel for the petitioner.

The disputes relate to the assessment years 2014-15 and 2015-16 for which two separate proceedings were initiated by the respondent-Joint Commissioner, CGST.

The petitioner has assailed the orders in original dated 24.01.2018 (*Annexure-1*) and 16.02.2018(*Annexure-2*) both passed by the learned Joint Commissioner, Central GST, Agartala under Section 73(1) of the Finance Act, 1994. The petitioner has also assailed the order in appeal dated 02.12.2020 (*Annexure-3*) issued by respondent no.2, the Ld. Commissioner (Appeals). He has also sought quashing of the rectification of mistake in order dated 09.10.2023(*Annexure-4*) issued by respondent no.2.

The petitioner also seeks quashing of the recovery notice dated 16.11.2023 (*Annexure-5*) issued by respondent no.3 for realization of the total

of Service Tax amounting to Rs.2,28,54,513/-, penalty of Rs.2,28,74,513/- plus interest at the applicable rates failing which the petitioner has been threatened with recovery proceedings under Section 79 of the CGST Act, 2017. Learned senior counsel for the petitioner has *inter alia* taken a number of grounds to assail the impugned order.

However, it appears that the petitioner has approached this Court after expiry of the period of limitation even as per the extended period of limitation granted by the Apex Court in *Suo Motu Writ Petition (C) No. 03/2020*. Reference is made to the judgment rendered by the Apex Court in *Assistant Commissioner (CT) LTU, Kakinada & Ors. Vs. Glaxo Smith Kline Consumer Health Care Limited* reported in *(2020) 19 SCC 681*.

Therefore, learned senior counsel for the petitioner seeks permission to withdraw the writ application in order to approach the learned CESTAT for preferring an appeal with a delay condonation application. He submits that the petitioner is under threat of recovery in view of the impugned notice dated 16.11.2023 (*Annexure-5*). Therefore, some time may be allowed to prefer an appeal and till then, the respondents may be restrained from taking coercive steps for realization of the service tax dues.

Learned counsel, Mr. P. Datta appearing for the Revenue has upon instructions submitted that if the petitioner is allowed liberty to withdraw the writ application and prefer an appeal before the learned CESTAT, the respondents would not take any coercive steps for a period of 2(two) weeks from today.

Learned counsel for the petitioner submits that they would be making the pre-deposit of the balance amount as mandated under Section 35(F) of the amended Excise Act, 1944.

In view of the aforesaid circumstances and the submissions made on behalf of the parties, the writ petition is allowed to be withdrawn.

The petitioner is at liberty to approach the learned CESTAT against the impugned orders within a period of 2(two) weeks from today and also make the necessary pre-deposit apart from other statutory compliances for maintaining the appeal. The respondents have already indicated that no coercive steps would be taken for a period of 2(two) weeks from today. However, if no appeal is filed within a period of 2(two) weeks from today, the respondents-Revenue would be at liberty to take steps for realization of the Service Tax dues.

Accordingly, the writ petition is disposed of.

(ARINDAM LODH, J)

(APARESH KUMAR SINGH, CJ)

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