

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(110)

CWP-26261-2023

Decided on : 08.01.2024

M/s Baxter (India) Pvt. Ltd.

.....Petitioner(s)

Versus

The Assistant Commissioner, CGST Division East-2, Gurugram

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present: Ms.Ashwini Chandrasekaran, Advocate for the petitioner (s).

G.S. Sandhawalia, J. (Oral)

1. Challenge in the present writ petition, filed under Article 226 and 227 of the Constitution of India is to the order dated 15.09.2023 (Annexure P-1) passed by the Assistant Commissioner, CGST Division East-2, Gurugram rejecting the refund claim.

2. Though in para No.27 of the writ petition, it has been averred that the petitioner has no other efficacious alternative remedy by way of appeal/review against the order impugned, counsel has conceded during the course of arguments that the remedy is available under Section 107 of the Central Goods and Service Tax Act, 2017 (for short, the 'Act').

3. Keeping in view the above, we are of the considered opinion that once there is a remedy available under the provisions of the Act, the extraordinary writ jurisdiction of this Court is not liable to be exercised, keeping in view the settled position of law in **United Bank of India Vs. Satyawati Tondon & others, (2010) 8 SCC 110.**

4. Faced with this situation, counsel does not press the present writ petition and prays that the same may be disposed of as such, with liberty to avail her statutory remedy.

5. Ordered accordingly. Keeping in view the fact that the writ petition was filed on 18.11.2023 and it has been pending since that point of time, we are of the considered opinion that if the appeal is filed within a period of 2 weeks from today, the Appellate Authority shall consider the period when the writ petition remained pending before this Court and thereafter, pass appropriate order for condoning the delay, if any, which has occurred.

(G.S. SANDHAWALIA)
JUDGE

January 8th, 2024
Sailesh

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No