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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12961 OF 2025

Altamash Mohtashim Bookwala

: Petitioner

Versus

Union of India and ors.

: Respondents

Mr Rakesh K Agrawal a/w Ms Pallak Ranawat and Mr. Steve Fernandes, for the Petitioner.

Mr J B Mishra a/w Mr. Ashutosh Mishra, for Respondent No.1.
Ms S D Vyas, Addl. GP a/w Mr. Aditya R Deolekar, AGP, for
the Respondent Nos. 2 to 4 – State.

CORAM M.S. Sonak &
 Advait M. Sethna, JJ.
DATED: 07 October 2025

PC:-

1. Heard Mr. Rakesh K Agrawal who appears a/w Ms Pallak Ranawat and Mr. Steve Fernandes for the Petitioner, Ms. Vyas appears for Respondent Nos. 2 to 4 and, at the request of this Court, Mr. J B Mishra appears for Respondent No.1.

2. The Petitioner claims to have filed an Appeal against the order dated 22 May 2022 before the First Appellate Authority, i.e. the Third Respondent, on 27 January 2024.

3. Admittedly, the Appeal was not accompanied by proof of pre-deposit of 10% of the tax amount. Accordingly, the Appeal

is not being considered by the Appellate Authority. Mr Agrawal assures this Court that the Appeal is not yet disposed of but remains pending.

4. The Petitioner applied for a waiver of pre-deposit. However, Mr Agrawal was unable to show us any provision under the CGST Act entitling the Petitioner to a waiver of pre-deposit. Mr Agrawal initially submitted that we should direct the first Appellate Authority to decide the Petitioner's Appeal on the merits. This submission is entirely misconceived. Unless the prerequisites for maintaining an Appeal are complied with, there is no question of the first Appellate Authority being directed to decide the Appeal on merits.

5. Mr Agrawal, now on instructions from the Petitioner, who is present in the Court, states that the pre-deposit amount of approximately Rupees Thirty-Four lakhs will be paid and the requirement of pre-deposit will be complied with within eight weeks from today. He points out that the Petitioner has had several financial difficulties, which is why this application is being made at this time.

6. In the peculiar circumstances of the present case, we permit the Petitioner to comply with the requirement of pre-deposit within eight weeks from today. However, we clarify that if this requirement is not complied with within eight weeks from today, then the Petitioner's Appeal against the order dated 02 May 2022 will stand dismissed without any further reference either to this Court or to the first Appellate Authority. The first Appellate Authority should only make a formal order dismissing the Petitioner's Appeal.

7. Ms. Vyas states that the Petitioner has filed no Appeal. Mr Agrawal states that at this stage, the Petitioner attempted to file the Appeal, but because the Petitioner was unable to make a pre-deposit and had sought a waiver, the Appeal may not have been accepted. He still maintains that the Appeal has been filed in a manual form and tried to produce an endorsement in support of this contention.

8. The averments and prayer clauses in this Petition are somewhat misleading. However, since we are indulging the Petitioner, we maintain our order and direct that if the pre-deposit is made within eight weeks from today, the Petitioner shall be allowed to file the Appeal digitally, and such Appeal shall be considered on its own merits and in accordance with the law.

9. Furthermore, on the grounds either based on this order or on the assertion that an Appeal is allegedly pending, the Petitioner cannot oppose the attachment proceedings already initiated or seek any other interim relief in this matter. If the Petitioner desires interim relief, they must fulfil the pre-deposit requirement and only then submit their application for interim relief.

10. This Petition is disposed of in the above terms with no order for costs. All concerned must act upon the authenticated copy of this order.

(Advait M. Sethna, J)

(M.S. Sonak, J)