IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 11427 of 2025
AND
WMP NO. 12905 OF 2025

M/S.Kevin Steels Pvt. Ltd.,
GSTN33AADCK4051H1ZV
Represented By its Director,
D.Amarsan Bagthasingh
No 342, 343, 289, Ramachandrapuram,
Madharpakkam Village,
Thiruvallur District.

Petitioner(s)

Vs

The Commissioner Of GST And Central Excise (Appeals II),
2nd Floor, Newry Towers,
No.2054-I, II Avenue, 12th Main Road,
Anna Nagar, Chennai 600 040.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records relating to the impugned Order - in- Appeal No.26/2025 dated 26.02.2025 passed by the respondent dismissing the appeal in Form-APL01 filed by the petitioner and to quash the said order and thereby direct the respondent to restore the Appeal filed by the petitioner and to pass a reasoned order on merits after following the principles of natural justice.

For Petitioner(s):	Mr.T.Ramesh
For Respondent(s):	Mr.R.P.Pragadish, Senior Standing Counsel

ORDER

This writ petition has been filed by the petitioner seeking to call for the records relating to the impugned Order - in- Appeal No.26/2025 dated 26.02.2025 passed by the respondent dismissing the appeal in Form-APL01 filed by the petitioner and to quash the said order and thereby direct the respondent to restore the Appeal filed by the petitioner.

2.Learned counsel for the petitioner would submit that the petitioner preferred an appeal against the assessment order dated 09.06.2023. However, the petitioner's appeal has been dismissed on the sole ground that the petitioner has made short payment on the mandatory pre-deposit, which is required before filing the appeal.

3.He would further submit that while filing appeal in Form APL-01, the petitioner's accountant wrongly filled the amount of Rs.1,18,98,642/- in the "Amount Admitted" column. The petitioner had already paid a sum of Rs.1,47,26,469/- before the issuance of the show cause notice, which is sufficient to be treated as pre-deposit. Even if the amount of Rs.1,18,98,642/- is treated as admitted amount, the petitioner is liable to pay only a sum of Rs.36,40,667/-. Therefore, the appeal has to be entertained. Hence, the present writ petition has been filed.

4.Mr.R.P.Pragadish, learned Senior Standing Counsel appearing for the respondent would submit that the petitioner had entered a sum of Rs.1,18,98,642/- as admitted amount while filing appeal in Form APL-01 and now they cannot claim that the tax amount was wrongly admitted. The mandatory pre-deposit has to be calculated according to the entries made by them while filing appeal and therefore, the petitioner shall make the payment of Rs.36,40,667/- towards pre-deposit.

5.Heard the learned counsel for the petitioner as well as the learned Senior Standing Counsel appearing for the respondent and perused the material available on record.

6.Considering the submissions made by the learned counsel for the petitioner as well as the learned Senior Standing Counsel appearing for the respondent, it is evident that the petitioner had remitted a sum of Rs.1,47,26,469/- even before the issuance of the show cause notice and there is no dispute on that aspect. According to the petitioner, his accountant had wrongly made the entries in the “Amount Admitted” column showing a sum of Rs.1,18,98,642/- as admitted amount and the petitioner's pre-deposit would only a sum of Rs.64,68,493/- and therefore, there is an excess deposit is lying with the respondent. Even though the entries towards the admitted liability was made by inadvertence, the pre-deposit has been calculated according to such entries and the respondent cannot be blamed for the inadvertence on the part of the petitioner. Thus, this Court is of the considered view that since the said amount of Rs.1,18,98,642/- has been shown as admitted amount, the petitioner is liable to pay the balance pre-deposit of Rs.36,40,667/-. Accordingly, this Court passes the following orders:-

i)The Order-in-Appeal impugned herein dated 26.02.2025 is set aside and the petitioner is directed to make the balance payment a sum of Rs.36,40,667/- towards mandatory pre-deposit within a period of four weeks from the date of receipt of a copy of this order.

ii)Upon production of proof for the payment of aforesaid amount by the petitioner, the Appellate Authority is directed to take the appeal on record and consider the said appeal filed by the petitioner on its own merits and in accordance with law, by providing sufficient opportunity to the petitioner, without pressing for limitation.

7.With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is also closed.

04-04-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

rst

To

The Commissioner Of GST And
Central Excise (Appeals II),
2nd Floor, Newry Towers,
No.2054-I, II Avenue, 12th Main Road,
Anna Nagar, Chennai 600 040.

KRISHNAN RAMASAMY J.

rst

WP No. 11427 of 2025
AND WMP NO. 12905 OF 2025

04-04-2025