$~44 to 47

*   **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+   W.P.(C) 16373/2024, CM APPL.7270/2025

MS PROSPERITY ASSET XII LLP .....Petitioner

Through: Mr. Adhitya Srinivasan, Mr. Rishabh Kanojiya, Mr. Ankur Das and Mr. Srajan Tyagi, Advs.

versus

SUPERINTENDENT CENTRAL GOODS AND SERVICES TAX RANGE 60 & ORS. .....Respondent

Through: Mr. Shubham Tyagi SSC,CBIC.

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\+   W.P.(C) 16374/2024, CM APPL.7274/2025

MS PROSPERITY ASSET XII LLP .....Petitioner

Through: Mr. Adhitya Srinivasan, Mr. Rishabh Kanojiya, Mr. Ankur Das and Mr. Srajan Tyagi, Advs.

versus

SUPERINTENDENT CENTRAL GOODS AND SERVICES TAX RANGE 60 & ORS. .....Respondent

Through: Mr. Shubham Tyagi SSC,CBIC.

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\+   W.P.(C) 16375/2024, CM APPL.7271/2025 (7 Days Delay in Rej.)

MS PIRG ASSET CXV LLP

.....Petitioner

Through: Mr. Adhitya Srinivasan, Mr. Rishabh Kanojiya, Mr. Ankur Das and Mr. Srajan Tyagi, Advs.

versus

SUPERINTENDENT CENTRAL GOODS AND SERVICES TAX RANGE 60 & ORS.

.....Respondent

Through: Mr. Shubham Tyagi SSC,CBIC.

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\+ W.P.(C) 16407/2024, CM APPL.7272/2025 (7 Days Delay in Rej.)

MS PROSPERITY ASSET XII LLP .....Petitioner

Through: Mr. Adhitya Srinivasan, Mr. Rishabh Kanojiya, Mr. Ankur Das and Mr. Srajan Tyagi, Advs.

versus

SUPERINTENDENT CENTRAL GOODS AND SERVICES TAX RANGE 60 & ORS. .....Respondent

Through: Mr. Shubham Tyagi SSC,CBIC.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

<u>O R D E R</u>

% **06.02.2025**

1. The writ petitioner has approached this Court seeking the following reliefs:-

> "A. To issue appropriate writ/directions/order in the nature of Mandamus directing the Respondents to give effect to the Order in Appeal dated 14.02.2022 passed by the Commissioner (Appeals – II), CGST in Appeal No. 80 / 2023-24;
>
> B. To issue appropriate writ/directions/order to the Respondents to restore the GST registration of the Petitioner.
>
> C. To grant such further and other reliefs as the nature and circumstances of the case may require."

2. It was constrained to approach this Court since the respondents had failed to restore the Goods and Services Tax ["**GST**"] registration of the writ petitioner despite the order passed by the Appellate Authority on 14 February 2024.

3. Pursuant to notice being issued on the writ petition, the

respondents have filed a counter affidavit. The solitary ground which appears to have weighed upon them in not giving effect to the order in appeal is a purported decision taken by the competent authority to prefer an appeal to the GST Appellate Tribunal against the order dated 14 February 2024.

4. Before us, it is fairly conceded that no provision of the Central Goods and Services Tax Act, 2017 can possibly be read as justifying the stand as taken. In our considered opinion, the mere decision taken by an authority to pursue the remedy of appeal does not result in the order-in-original or in appeal of which compliance is sought being placed in abeyance.

5. We bear in consideration the following succinct observations which came to be rendered by the Court in **Alex Tour & Travel (P) Ltd. vs. Commr. (CGST)** [2023 SCC OnLine Del 2709] in this regard:-

> "17. Undisputedly, the Revenue is entitled to file an appeal under section 112 of the Central Goods and Services tax Act, 2017, within a period of three months from the date of the order. We are informed that the said period has been extended as the Appellate Tribunal has not been constituted as yet. However, the respondent cannot refuse to comply with the appellate orders on this ground.
>
> 18. We are unable to accept that the Revenue can ignore an order passed by the appellate authority on the ground that it proposes to appeal the said order.
>
> 19. Suffice it to note that there is no order passed by any competent court, staying the implementation of the orders-in-appeal passed by the appellate authority. The Revenue has also taken no steps for securing orders to that effect.
>
> 20. We are also unable to appreciate the insistence on the part of the Revenue for the appellant to file fresh applications for the refund.
>
> 21. Mr. Singla fairly states that fresh applications for refund or response to show-cause notices are not necessary, considering that

> the proceedings emanated from the petitioner filing applications for refund, which culminated in orders-in-appeals passed by the appellate authority.
>
> **xxxxxxxxxxx**
>
> 25. The present petition is allowed. The respondent is directed to forthwith disburse the petitioner's claim for refund along with interest as payable in accordance with law.
>
> 26. It is, however, clarified that this order would not preclude the respondent from availing statutory remedy against the orders-in-appeal in accordance with law."

6. We, accordingly, and for all the aforesaid reasons allow the instant writ petition and direct the respondents to restore the GST registration of the writ petitioner in terms as directed by the order in the appeal dated 14 February 2024 forthwith.

7. The writ petitions shall stand disposed of on the aforesaid terms.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

FEBRUARY 06, 2025/neha