2026:HHC:48793

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.20043 of 2026
Date of decision: 05.11.2026

M/s Paonta H.P. Centre **.....Petitioner**

Versus

State of H.P. and others **.....Respondents**

Coram

The Hon'ble Mr. Justice Ajay Mohan Goel, Judge.
The Hon'ble Mr. Justice Yogesh Jaswal, Judge.

Whether approved for reporting?[1]

For the Petitioner **:** Mr. Jyotirmay Bhatt, Advocate.

For the Respondents **:** Mr. Sushant Keprate, Additional Advocate General.

Ajay Mohan Goel, Judge (Oral)

By way of this writ petition, the petitioner has, inter alia, prayed for the following reliefs:-

> "(i) Issue a writ of certiorari quashing and setting aside the order dated 30.06.2025 (Annexure P-1) dismissing Appeals Nos.152-155 of 2018-19 and 47-52 of 2019-20 in default;
>
> (ii) Issue a writ of certiorari quashing and setting aside the order dated 03.09.2026, No. EXN-JCSTE-(GST-W)-SZ- (Appeal) 2025-26-5706-5709 (Annexure P-3);
>
> (iii) Issue a writ of certiorari quashing and setting aside the notice dated 30.10.2026 in form VAT-XXIX (Annexure P-4);
>
> (iv) Issue a writ of mandamus directing respondent No.3 to restore Appeals Nos. 152-155 of 2018-19 and 47-52 of 2019-20 to their original numbers, to fix a date after due notice to the petitioner and its counsel, and to decide them on merits in accordance with law."

2. Brief facts necessary for the adjudication of this petition are that an appeal preferred by the present petitioner, which was pending adjudication before the Appellate Authority-cum-Additional

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?Yes***

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Commissioner State Taxes and Excise (South Zone), H.P. Shimla, was dismissed in default on 30.6.2025 as on the said date, none appeared on behalf of the petitioner/appellant before the Appellate Authority. The order passed by the learned Appellate Authority on 30.06.2025 reads as under:-

> "30/06/2025 Sh. Vinod Sharma, ASTEO, for the deptt. & none for the Appellant.
> Ample opportunity of being heard have been afforded to the Appellant. Hence, case/Appeal is dismissed.
>
> Sd/-
> Appellate Authority"

3. Thereafter, an application was filed by the petitioner/appellant for recall of the order, in terms whereof, the appeal was dismissed in default. Said application has been rejected by the learned Appellate Authority in terms of Annexure P-3 order dated 03.09.2026. Feeling aggrieved, the petitioner has approached this Court.

4. We have learned counsel for the petitioner as also learned Additional Advocate General and have perused the record appended with the petition including the impugned order. We do not find any infirmity in the order in terms whereof, the petition was dismissed in default, as the learned Appellate Authority did not have any option but to dismiss the petition in default as none was representing the appellant before the said Authority. Similarly, we also do not find any infirmity in the order, in terms whereof, the application seeking recall of the order was dismissed by the Appellate Authority.

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5. However, as a matter of indulgence, in the interest of justice, as the appeal was pending for some time, we dispose of this petition by setting-aside the impugned orders, i.e. the order in terms whereof, the appeal was dismissed in default as also the order in terms whereof, the application for recalling the order of dismissal in default was rejected, subject to payment of cost of ₹50,000 by the petitioner to the respondents. In the event of the cost being deposited by the petitioner with the respondents within a period of four weeks from today, learned Appellate Authority thereafter, on an application to be filed by the petitioner, shall restore the case to its original number and after hearing the parties, shall decide the same in accordance with law. It is clarified that after the restoration of the appeal, no more than two opportunities will be given by the learned Appellate Authority-cum-Additional Commissioner, State Taxes and Excise (South Zone), H.P. Shimla to the parties to address their arguments. In case, the petitioner even after the restoration of the appeal, seeks any adjournment beyond two opportunities, the learned Appellate Authority shall be at liberty to dismiss the appeal for non-prosecution. Pending miscellaneous application(s), if any, shall also stand disposed of.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

05th November, 2026.
(**yogesh**)