BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2026

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(MD)No.1152 of 2026

Rehoboth Fish Meal And Oil Plant
Represented by its Partner J. Sudeep Fernando
109/1, M.Shanmugapuram
Vilanthikulam Taluk
Thoothukudi - 628 901.

... Petitioner

Vs.

1. Additional Commissioner
Office of the Additional Commissioner
of CGST and Central Excise
No.7, Tractor Road, N.G.O. A Colony
Tirunelveli - 627007

2. Commissioner of CGST and Central Excise (Appeals)
Central Revenue Buildings
Bibikulam, Madurai-625 002

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the 2nd Respondent Appellate Authority to take the Appeal filed manually in their Office through Speed Post delivered on 06.01.2026 on record along with letter dated 05.01.2026 and dispose off the said Appeal in terms of the directions given in Order dated 02.07.2024 passed in WP MD No. 14068 of 2024.

For Petitioner : Mr.Joseph Prabakar

For Respondent : Mr.R.Gowri Shankar

ORDER

This writ petition has been filed to direct the 2nd respondent to take the appeal filed manually in their Office through Speed Post delivered on 06.01.2026 on record along with letter dated 05.01.2026 and dispose off the said Appeal in terms of the directions given in Order dated 02.07.2024 passed in WP(MD)No.14068 of 2024.

2. The learned counsel for the petitioner would submit that the present matter is pertaining to the levying of tax on fish meal. In a similar matter, this Court, vide order dated 05.10.2021 in WP(MD)No. 16770 of 2019, had held that the fish meal is exempted from the payment of tax. Subsequently, the said order was challenged vide W.A.(MD)No. 112 to 116 of 2022 by the respondent, wherein the aforesaid order dated 05.10.2021 was reversed by the Hon'ble Division Bench of this Court

vide its order dated 03.11.2023. Aggrieved over the same, now, the petitioner therein had preferred a Special Leave Petition before the Hon'ble Apex Court and the same is pending.

3. Further, he would submit that in this case, initially, the show cause notice dated 19.01.2024 was issued by the respondents demanding GST at the rate of 5% on the supply of Fish Meal. Subsequently, the original assessment order dated 22.04.2024 came to be passed by the 1st respondent, whereby, they confirmed the demand made in the show cause notice. Aggrieved over the same, the petitioner filed a writ petition in WP(MD)No.14068 of 2024, wherein this Court, vide order dated 02.07.2024, directed the petitioner to file an appeal against the assessment order.

4. Thereafter, in a similar matter, viz., WP(MD)No.17418 of 2024, this Court, vide order dated 26.07.2024, directed the petitioner to file an appeal against the assessment order and it has been specifically stated that at the time of filing the appeal, the petitioner therein shall pay 10% of statutory pre-deposit for all the other items except “Fish Meal”.

Pursuant to the said order, an appeal was preferred by the petitioner herein on 29.01.2025 without paying the statutory pre-deposit since the demand was made only on supply of Fish Meal. However, without taking into consideration of the order of this Court dated 26.07.2024, the said appeal was rejected by the respondent on the ground that no statutory pre-deposit was paid. Hence, this petition.

5. In reply, the learned counsel for the respondent had confirmed the submissions made by the petitioner and requests this Court to pass appropriate orders.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondents and also perused the entire materials available on record.

7. Upon perusal of records, it appears that in a similar matter, viz., WP(MD)No.17418 of 2024, this Court, vide order dated 26.07.2024, directed the petitioner to file an appeal against the assessment order and it has been specifically stated that at the time of filing the appeal, the

petitioner therein shall pay 10% of statutory pre-deposit for all the other items except “Fish Meal”. Pursuant to the said order, an appeal was preferred by the petitioner on 29.01.2025 without paying the statutory pre-deposit since the demand was made only on supply of Fish Meal. However, the said appeal was rejected on the ground of non-payment of statutory pre-deposit. Now, the present petition came to be filed to direct the 2nd respondent to take the said appeal, filed by the petitioner, on record.

8. Normally, an appeal has to be preferred after payment of 10% of statutory pre-deposit in terms of the provisions of GST Law. Further, it was submitted by the petitioner that the issue, with regard to the levy tax on the supply of Fish Meal, has not attained its finality since a similar set of matters is still pending before the Hon'ble Apex Court. When such being the case, the payment of statutory pre-deposit cannot be dispensed with.

9. In view of the above, this Court directs the petitioner to make payment of 10% of statutory pre-deposit as mandated in the GST Act

and thereafter, re-present the appeal before the 2nd respondent by way of uploading it in the portal. If there is any difficulties in uploading the appeal, the same shall be filed physically after the payment of 10% of statutory pre-deposit. Upon filing of such appeal, the respondent shall take the said appeal on record and keep it pending until the verdict of the Hon'ble Supreme Court in the aforesaid SLPs, which were filed for similar relief.

10. With the above directions, this writ petition is disposed of. No cost.

02.02.2026

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

To

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KRISHNAN RAMASAMY.J.,

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