



Darshan Patil

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 28914 OF 2024

Delphi World Money Ltd.]	
A Public Listed Company registered]	
under the provisions of the Companies]	
Act, 1956 and having its registered]	
office at 8th Floor, 801, Manek Plaza]	
Kalina CST Road, Kolkalyan,]	
Santacruz East]	
Mumbai- 400 098.]	...Petitioner

Versus

1. The Union of India through the]	
Ministry of Law & Justice, Branch]	
Secretariat, Aaykar Bhavan,]	
Annex Building, 2nd Floor,]	
New Marine lines, Mumbai- 400 021.]	...Respondent No.1
2. The Commissioner (Appeals-II)]	
CGST & Central Excise, Mumbai]	
3rd Floor, CGST Bhavan, Plot No. C-]	
24, Sector-E, Bandra Kurla Complex]	
Bandra (East), Mumbai- 400051]	...Respondent No.2
3. Commissioner of CGST and]	
Central Excise, Range 1, Division III,]	
Mumbai East Commissionerate, 10th]	
Floor, Lotus Info Center, Near Parel]	
Station Mumbai- 400012.]	...Respondent No.3

Mr Sriram Sridharan, a/w Adv Shanmuga Dev, for the
Petitioner.

Mr Karan Adik, a/w Ms Sangeeta Yadav, for the Respondents.

CORAM M.S. Sonak &
Jitendra Jain, JJ.
DATED: 11 November 2024

PC:-

1. Heard learned counsel for the parties.
2. Rule. The Rule is made returnable immediately with the consent of and at the request of the learned counsel for the parties.
3. This Petition is impugning an Order-in-Appeal dated 20.06.2024 (issued on 03.07.2024) passed by the Respondent No. 2. By the said Order-in-Appeal, the Petitioner's appeal was dismissed on the following alleged grounds:

(i) That the Petitioner has not submitted any valid proof regarding payment of the mandatory pre-deposit equal to 10% of the disputed amount as required under Section 107(6) of the CGST Act, 2017.

(ii) That the Petitioner has not submitted any valid documents, such as Board Resolution, to establish that he is the authorised signatory to sign the appeals under the Companies Act, 1956.

4. The first ground on which the appeal has been dismissed is that the payment of the pre-deposit equal to 10% of the disputed amount in terms of Section 107(6) of the CGST is not complied with.
5. The Petitioner has claimed that they had paid a pre-deposit Amount of Rs. 4,42,55,474/- (10% of the disputed tax amount) when filing their appeal before the Respondent.

No.2. We have examined the record before us. In the memorandum of appeal i.e., Form APL-01 itself, the amount of pre-deposit paid has been specified under S.No.15 of Form APL-01. Further, Exhibit M of the Petition are screenshots of the Electronic Credit Ledger, and the Electronic Cash Ledger of the Petitioner downloaded from the GSTN portal. This document shows that the Petitioner has made a payment of Rs. 3,20,22,340/- from the Electronic Credit Ledger on 12.03.2024 and a payment of Rs. 1,22,33,134/- from the Electronic Cash Ledger on 12.03.2024 totalling to Rs. 4,42,55,474/-. Further, Exhibit N to the Petition is the system-generated provisional acknowledgement of the appeal, which is generated automatically by the Respondents' portal once an assessee files an appeal. This acknowledgement itself shows that the requisite pre-deposit has been made. Hence, we are satisfied that the Petitioner had complied with the necessary pre-deposit required in Section 107(6) of the CGST Act.

6. In any case, if Respondent No. 2 was not satisfied with the amounts claimed to have been paid by the Petitioner, he should have intimated that to the Petitioner and provided the Petitioner with an opportunity to clarify and prove the payments made by them.

7. In a similar matter in Writ Petition (L) No.23724 of 2024 in Bytedance (India) Technology Pvt. Ltd v. Union of India, this Court had, by an order dated 27th August 2024, set aside the order passed by the Appellate Authority and remanded it for de novo consideration. The relevant portion of the said order reads as under: -

“1. Petitioner is impugning an order-in-original dated 6th May 2024 passed by Respondent No.2. The appeal has

been dismissed on the ground that the appeal is filed beyond the limitation provided and there was no application for condonation of delay and the amount of pre-deposit has also not been made.

....

3. On the amount of pre-deposit, there is enough evidence annexed to the petition that a sum of Rs.7,89,09,672/- has been deposited and even the receipt is annexed to the petition. Therefore, to say that there is no pre-deposit in the impugned order is incorrect”.

8. The second ground on which the appeal is dismissed is that the Appellant has not submitted any valid documents, such as a Board resolution appointing the said person as an authorised signatory to sign the appeals. Admittedly, the petitioner was never called upon to file the same. Further, if Respondent No.2 had brought this to the notice of Petitioner at the time of personal hearing, it would have been clarified.

9. We have seen Exhibit K to the Petition, a screenshot/extract from the GSTN Portal, which reflects that Mr. Deepak Kokate is duly authorised to sign the appeal documents. We are informed that to be registered on the GSTN portal as an authorized signatory, the person must submit the relevant board resolution or power of attorney authorizing him. If Respondent No.2 had taken a few seconds to check the GSTN portal, he would have found that Mr. Deepak Kokate is duly authorised to sign the appeal documents.

10. In a similar matter in Writ Petition No.11298 of 2024 in Tata Consumer Products Ltd. Vs. Union of India & Ors., this Court had, by an order dated 13th August 2024, set aside the

order passed by the Appellate Authority and remanded it for de novo consideration. The said order reads as under: -

“1. The order dated 29th May 2024 has been impugned on various grounds. One of the grounds is that the appeal has been dismissed on the basis that the appeal has not been signed by authorised signatory and the Appellant has not submitted Board Resolution under the Companies Act, 1956, appointing the said person as authorised signatory to sign the appeals, documents or any other proof of his being authorised signatory of Appellant. Appeal has been signed and verified by one Akshaya P. Herle. We find in the impugned order the Appellate Authority admits that an affidavit has been signed and verified by the same Akshaya P. Herle reiterating the arguments made during the personal hearing. In our view, if the Appellate Authority wanted to verify the authority of Akshaya P. Herle, he was duty bound to call upon Appellant, if he had any doubts with regard to the authority. In this case, in our view, if only the Appellate Authority had bothered to check the GST portal of Appellant, he would have found that Akshaya P. Herle was an authorised signatory.

2. When we brought all these to the notice of Mr. Mishra, on instructions from the same officer, i.e., Sumit Kumar, who is present in the Court, Mr. Mishra stated that the impugned order could be quashed and set aside and the matter remanded for denovo consideration. Ordered accordingly.

3. Appellate Authority who will hear this appeal shall give personal hearing to Appellant, notice whereof shall be communicated atleast 5 working days in advance. The order to be passed shall be a reasoned order dealing with all submissions of Appellant. If the Appellate Authority is going to rely on any order or judgment of any Court or Tribunal or any other forum, a list thereof shall be made available along with the notice for personal hearing. If the order or a judgment is unreported then a copy thereof shall also be made available along with the notice. This is to enable Appellant to deal with/distinguish the judgment or the order.

4. The appeal shall be disposed by 30th November 2024.

5. All rights and contentions are kept open to the parties.

6. We hasten to add that we have not made any observations on the merits of the matter.

7. Petition disposed.”

11. This Court has taken a similar view in the following cases: Order dated 13.08.2024 in Century Textiles & Industries Ltd. v. Union of India & Ors. (Writ Petition No. 11297 of 2024), Order dated 21.08.2024 in Heena Metals v. Union of India & Ors. (Writ Petition (L) No. 26025 of 2024), Order dated 13.08.2024 in Tata Consumer Products Ltd. v. Union of India & Ors., (Writ Petition No. 11298 of 2024), Order dated 22.08.2024 in Zyduz Wellness Products Ltd. v. Union of India & Ors. (Writ Petition (L) No. 26123 of 2024).

12. In the above-said circumstances, we quash the impugned order and remand it to Respondent No.2 for de novo consideration.

13. Respondent No. 2 will give the petitioner a personal hearing once again, and notice will be communicated at least five working days in advance. The order to be passed will be a reasoned order dealing with all the Petitioner's submissions. The appeal must be disposed of by 31st December 2024.

14. All rights and contentions are kept open to the parties.

15. We clarify that we have not made any observations on the merits of the matter.

16. The Rule is disposed of in the above terms without any orders for costs.

(Jitendra Jain, J)

(M.S. Sonak, J)