



W.P.Nos.30542 of 2022 batch

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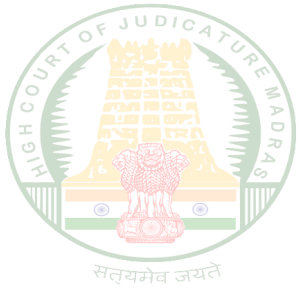
**W.P.Nos.30542, 32896, 33188, 33234, 33310, 35062, 33766 of 2022 &  
W.P.Nos.487, 1196, 1273, 298, 138, 113, 647, 1530, 1520, 1423, 1354 &  
1349 of 2023 &**

**W.M.P.Nos.29972, 32297, 32299, 1273, 1275, 33280, 33281, 34501 of  
2022 &**

**W.M.P.Nos. 285, 286, 127, 128, 101, 587, 1530, 1604, 1508, 1509 & 1400  
of 2023**

**ABDUL QUDDHOSE, J.**

In this batch of writ petitions, the respective petitioners have challenged the cancellation of their respective GST Registrations. The respondents have refused to entertain the appeal filed by the respective petitioners aggrieved by the cancellation of their respective GST Registrations under section 107 of the GST Act on the ground that the said appeals were filed beyond the maximum time limit stipulated under section 107 of the Act. In some cases, the petitioners have directly challenged the cancellation order without preferring the statutory appeal prescribed under section 107 of the GST Act and in other cases, they have challenged the orders passed by the Appellate Authority under section 107 of the GST Act by which the Appellate Authority has refused to entertain the appeals on the ground that the said appeals were filed beyond the maximum time limit stipulated under section 107 of the Act.



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2. Therefore, the issue that arises for consideration is whether this

Court exercising powers under Article 226 of the Constitution of India is empowered to condone the delay beyond the maximum time limit stipulated under section 107 of the GST Act.

3. While dealing with the very same issue, one of the Hon'ble Single Judges of this Court (**Anita Sumanth, J.**) in her decision dated 16.11.2022 rendered in a batch of writ petitions in re ***Pandidorai Sethupathi Raja vs. The Superintendent of Central Tax (W.P.No.14879 of 2022 batch)*** held that this Court is having the power to condone the delay in filing the appeal under section 107 of the GST Act under certain extraordinary circumstances mentioned in the said order. However, another Hon'ble Judge of this Court (**M.Sundar, J.**) (a) by order dated 07.12.2022 in the case of ***Hemasri Enterprises vs. The Appellate Authority / The Deputy Commissioner (ST) (FAC) (W.P.No.32877 of 2022)*** and (b) by order dated 02.01.2023 in the case of ***Ramunajan Venkatesan vs. The Joint Commissioner (Appeals-II) (W.P.No.34774 of 2022)*** has held that this Court while exercising powers under Article 226 of the Constitution of India, does not have the power to



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condone the delay when the statutory appeal filed under section 107 of the  
WEB CO GST Act is beyond the maximum time limit stipulated in the said section.

4. Since there are two contradictory views expressed by two Hon'ble Judges of this Court, Judicial Discipline and Propriety demands that I refer the matter to a Division Bench of this Court.

5. The point of reference to the Division Bench is as follows:

Whether the view taken by the Hon'ble Single Judge (**Anita Sumanth, J.**) in her decision dated 16.11.2022 in the case of *Pandidorai Sethupathi Raja vs. The Superintendent of Central Tax (W.P.No.14879 of 2022 batch)*

or

the view taken by another Hon'ble Single Judge (**M.Sundar, J.**) in his decisions (a) *Hemasri Enterprises vs. The Appellate Authority / The Deputy Commissioner (ST) (FAC) (W.P.No.32877 of 2022)* dated 07.12.2022 and (b) *Ramunajan Venkatesan vs. The Joint Commissioner (Appeals-II) (W.P.No.34774 of 2022)* dated 02.01.2023 is correct.



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6. Registry is directed to immediately place this matter before My

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Lord, the Hon'ble Acting Chief Justice of this Court for getting suitable orders for posting these writ petitions before the appropriate Division Bench nominated by him for early hearing of these writ petitions.

**23.01.2023**

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**ABDUL QUDDHOSE, J.**

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**23.01.2023**