

W.P.No.1324 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 01.02.2024

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

**W.P.No.1324 of 2024**  
**and W.M.P.No.1358 of 2024**

Great Heights Developers LLP  
Represented by its Partner  
Sunil Pitaliya  
No.42, 4<sup>th</sup> Floor, Sindur Plaza  
Montieh Road, Egmore, Chennai 600 008.

... Petitioner

-VS-

1.Additional Commissioner  
Office of the Commissioner  
Of CGST & Central Excise,  
Chennai North Commissionerate  
No.26/1, Mahatma Gandhi Road,  
Chennai 600 034.

2.Commissioner of GST  
Appeal - I,  
GST Bhawan, Main Building 2<sup>nd</sup> Floor,  
No.26/1, Mahatma Gandhi Road,  
Chennai 600 034.

... Respondents



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**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the impugned proceedings of the first respondent passed in Order In Original No.44/2023 CH.N (ADC) (GST) dated 14.08.2023 and quash the same insofar as imposition of penalty U/s.73(9) read with Section 73(7) of the CGST/SGST Acts, 2017 for Rs.30,98,857/- and interest under Section 50(1).

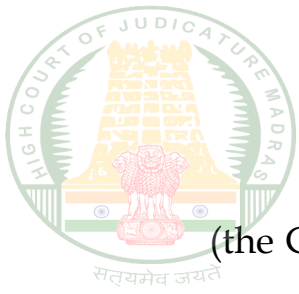
For Petitioner : Mr.N.Murali

For Respondents : Mr.Rajinish Pathiyil, Sr. SC

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### **ORDER**

The petitioner challenges order in original dated 14.08.2023 insofar as the imposition of penalty and interest under Section 73(9) and Section 73(7) of the Central Goods and Services Tax Act, 2017



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(the CGST Act) are concerned. The petitioner states that pursuant to

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the show cause notice, the impugned assessment order was issued on 14.08.2023. Such order was received by the petitioner on 16.08.2023. Accordingly, the appeal should have been filed within 90 days thereof. It is further stated that the appeal could not be filed in time both on account of the petitioner being diagnosed with septic shock and on account of the consequential difficulties in following up with the consultant. As a result, it is stated that the time limits for filing an appeal with an application to condone delay expired on 16.12.2023.

2. Under Section 107 of the CGST Act, the Appellate Authority does not have the power to condone delay beyond 120 days. In this case, the period of further delay is only 24 days and the petitioner has provided cogent reasons to explain such delay. It is pertinent to note that the petitioner has paid the entire tax liability and the proposed appeal is limited to penalty and interest.



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3. Therefore, the Appellate Authority is directed to receive and

dispose of the appeal on merits if the appeal is received within a maximum period of *ten days* from the date of receipt of a copy of this order.

4. W.P.No.1324 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.No.1358 of 2024 is closed.

**01.02.2024**

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Index : Yes / No

Internet : Yes / No

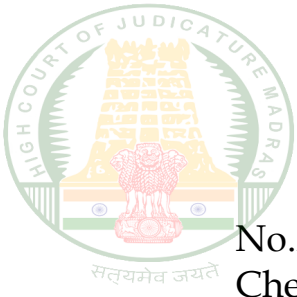
Neutral Citation: Yes / No

**To**

1. Additional Commissioner  
Office of the Commissioner  
Of CGST & Central Excise,  
Chennai North Commissionerate  
No.26/1, Mahatma Gandhi Road,  
Chennai 600 034.

2. Commissioner of GST  
Appeal - I,  
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No.26/1, Mahatma Gandhi Road,  
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**SENTHILKUMAR RAMAMOORTHY,J**

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