IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

&

HON'BLE SHRI JUSTICE ALOK AWASTHI

ON THE 15th OF SEPTEMBER, 2026

WRIT PETITION No. 15843 of 2026

MAPLE OVERSEAS TRADE PRIVATE LIMITED THROUGH ITS DIRECTOR PAWAN GARG

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Arpit Singh - Advocate for the petitioner.

Shri Amit Bhatia- G.A. for the State.

ORDER

Per*: *Justice Subodh Abhyankar

1. This petition has been filed by the petitioner under Article 226 of the Constitution of India, seeking the following reliefs:-

> "It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to:
> i. Issue an appropriate writ, order or direction, including a writ of certiorari, quashing and setting aside the impugned appellate order (Annexure-P/18) dated 05.03.2026 passed in Form GST APL-04 bearing Order No. ZD230326006489F, passed by the Joint Commissioner of State Tax (Appellate Authority), Indore Division- I and remanding the matter back for fresh adjudication after affording opportunity of personal hearing to the petitioner herein and pass a speaking order thereafter;
> ii. Pass any other order(s) or direction(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. The petitioner is aggrieved of the order dated 05.03.2026 passed by the respondent No.2, Joint Commissioner of State Tax (Appellate

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Authority) Division-I, whereby the appeal filed by the petitioner has been dismissed for want of prosecution.

3. Shorn of details, the facts of the case are that the petitioner preferred the aforesaid appeal on 17.10.2022 before the Appellate Authority, being aggrieved of the order dated 07.09.2022, passed by the Deputy Commissioner of State tax, Indore Division, whereby the demand to the tune of Rs.81,46,488/- was raised against it. The appeal was preferred on a pre-deposit of Rs.6,04,788/-, which was formally accepted on 20.12.2023, and notice of personal hearing was also issued on 20.12.2023, which was uploaded on the GST portal under 'Additional notices/Orders' tab, and such subsequent notices were also issued to the petitioner on the said tab, regarding which, the petitioner's contention is that it had no knowledge of, as it was under the impression that the date of hearing would be properly communicated to him, however, the appeal came to be rejected on 05.03.2026, observing that since three notices dated 09.02.2024, 21.03.2024 and 02.03.2026 have already been issued of hearing, hence no further time is required to be given to the petitioner, and thus, the appeal has been rejected on account of non-prosecution/non-appearance of the appellant.

4. Counsel for the petitioner has submitted that although a remedy of appeal is also available to the petitioner, but looking to the fact that the appeal has been dismissed on account of non-prosecution only, despite the amount of pre-deposit having also made by the petitioner, the same was entitled to be heard on merits. It is also submitted that otherwise also, even in the absence of the appellant, the appeal could not have been rejected on account of its non-appearance, as Section 113 of Central Goods and Services Tax Act, 2017 clearly provides that the

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appeal has to be decided on merits. Counsel for the petitioner has also relied upon various decisions of this Court, as also of the other Courts to submit that the notice issued on tabs cannot be said to be proper service of notice.

5. Counsel for the respondent, on the other hand, has opposed the prayer.

6. Heard. Having considered the rival submissions and on perusal of the record, we find that the appeal was duly constituted, accompanied by the amount of pre-deposit. So far as the contention of the appellant that the appeal could not have been dismissed for want of prosecution as is also provided under Section 113, which provides that the Appellate Tribunal shall pass such orders as it thinks fit, confirming, modifying or annulling the decision or order appealed against. However, Section 111(1) and (2) of the Act of 2017, which are relevant here, which provides for procedure before the Appellate Tribunal, read as under:-

> "**111. Procedure before Appellate Tribunal.**—(1) The Appellate Tribunal shall not, while disposing of any proceedings before it or an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and subject to the other provisions of this Act and the rules made thereunder, the Appellate Tribunal shall have power to regulate its own procedure.
>
> (2) The Appellate Tribunal shall, for the purposes of discharging its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:—
>
> (*a*) summoning and enforcing the attendance of any person and examining him on oath;
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> (*b*) requiring the discovery and production of documents;
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> (*c*) receiving evidence on affidavits;
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> (*d*) subject to the provisions of Sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or a copy of such record or document from any office;

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(*e*) issuing commissions for the examination of witnesses or documents;

(*f*) dismissing a representation for default or deciding it *ex parte*;

(*g*) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*; and

(*h*) any other matter which may be prescribed."

(Emphasis Supplied)

7. A bare perusal of the aforesaid provision, (though not happily worded, as the word representation has been used instead of appeal) would clearly reveal that the Appellate Tribunal has the power to dismiss any appeal for want of prosecution, as provided under C*lause(f) of Section 111(2)*, and also to set aside any order of dismissal passed by it *ex-parte,* under *sub-clause(g) of Section 111(2) (supra).* Thus, instead of running to this Court by the filing the present petition running into twenty-four pages for such trivial matter, the petitioner could and ought to have exhausted his remedy before the Appellate Tribunal as provided aforesaid.

8. On the factual aspects, we are of the considered opinion that the petitioner cannot be left remediless, or be relegated to file a second appeal, when the order passed by the Appellate Authority itself was on account of non-prosecution by the appellant, whereas, the appellant's contention is that it was not properly informed about the hearing of the appeal, thus, the appellant deserves an order on merits in his first appeal, as we also believe that there was no reason for the petitioner not to prosecute the appeal despite having made the pre-deposit to the tune of Rs.6,04,788/-.

9. So far as the non-service of notice of hearing of appeal or its improper service is concerned, we find that there are many such cases being filed before this Court, in which the grievances of the assesses are that they had no service of notice from the Department. Thus, in

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order to avoid such unpleasant situation in future, we also advise the Department to introduce such simple procedure of service of notice, in addition to the existing procedure, such as sending an SMS/e-mail to the party/Advocate about the date of hearing, which would solve unnecessary litigation on technical grounds.

10. Be that as it may, the appeal deserves to be and is hereby allowed.

11. Accordingly, the impugned order dated 05.03.2026 is hereby set aside, and the matter is remanded back to the Appellate Authority for its decision afresh after giving due opportunity of hearing to the petitioner. To avoid unnecessary delay, the appellant is also directed to appear before the Appellate Authority on 30.09.2026.

12. With the aforesaid, the petition stands ***allowed*** and ***disposed of.***

(SUBODH ABHYANKAR)
JUDGE

(ALOK AWASTHI)
JUDGE

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