

Revenue Department is required to de-freeze the bank account once the required amount for filing has been deposited by the Appellant

The Hon'ble Madras High Court in the case of *Jey Tech Moulds Dies vs Deputy Commissioner (GST) [W.P. No. 33523 of 2023 dated November 30, 2023]* directed the Revenue Department to de-freeze the bank account of the Appellant, thereby holding that, the proceedings initiated by the Revenue Department would automatically be stayed, as and when, the amount has been deposited by the Appellant for filing the appeal under Section 107 of the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**).

Facts:

Jey Tech Moulds Dies (**"the Petitioner"**) filed GST returns but the supplier of the Petitioner failed to pay the required tax. As the supplier failed to make the payment of tax, Revenue Department (**"the Respondent"**) passed an order against the Petitioner and further, froze the bank account of the Petitioner.

The Petitioner made a representation dated October 18, 2023 (**"the Representation"**) to de-freeze the bank account wherein they undertook to deposit the pending ITC to the Respondent. The Petitioner also filed an appeal before the Appellate Authority and paid Rs. 83,000 for accepting the appeal which is yet to be numbered by the Respondent.

Aggrieved, the Petitioner filed writ petition to direct the Respondent to consider the representation of the Petitioner.

Issue:

Whether the Revenue Department is required to de-freeze the bank account once the required amount for filing appeal has been deposited by the Appellant?

Held:

The Hon'ble Madras High Court in the case of **W.P. No. 33523 of 2023** held as under:

- Noted that, as per Section 107 of the CGST Act, if the Petitioner has paid ten percent of tax dues along with the penalty for filing appeal, the Respondent proceedings would automatically be stayed.
- Opined that, as the petitioner had paid a sum of Rs. 83,000, the Respondent is supposed to de-freeze the bank account of the Petitioner as per Section 107 of the CGST Act.
- Directed that, the Respondent is required to take into consideration the representation filed by the Petitioner and de-freeze the petitioner's bank account, after submission of proof of deposit of Rs. 83,000 or ten percent of the total demand made by the Respondent.

Relevant Provisions:

Section 107(6) and 107(7) of the CGST Act:

“Section 107: Appeals to Appellate Authority

(6) No appeal shall be filed under sub-section (1), unless the appellant has paid-

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order subject to a maximum of twenty-five crore rupees, in relation to which the appeal has been filed.

Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of the penalty has been paid by the appellant.

(7) Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.”

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