

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.12966 of 2026
Date of decision: 31.07.2026

M/s Vasanta Resorts and Spa Pvt. Limited. ...Petitioner.

Versus

Union of India & Ors. ...Respondents.

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Ranjan Sharma, Judge.

Whether approved for reporting?¹

For the petitioner : Mr. Sandeep Goyal, Senior Advocate
with Mr. Goverdhan Lal, Advocate.

For the respondent(s) : Ms. Rita Thakur, Senior Panel Counsel for
respondent No.1-UOI.

: Mr. Anup Rattan, Advocate General with
Mr. Sushant Keprate, Additional
Advocate General, for respondents No.2
to 4-State.

Vivek Singh Thakur, Judge

Notice. Ms. Rita Thakur, Senior Panel Counsel and Mr.
Sushant Keprate, Additional Advocate General, appear, waive and
accept service of notice on behalf of respondent No.1 and
respondent Nos.2 to 4 respectively.

¹ Whether the reporters of the local papers may be allowed to see the Judgment? Yes

2. The petitioner has approached this Court being aggrieved by retrospective amendment of Section 17(5)(d) of Central Goods and Services Tax Act, 2017 (in short '**CGST Act**') as well as dismissal of the appeal preferred by the petitioner under Section 107 of CGST Act as being time-barred, instead of deciding the same on merits.

3. It has been submitted by learned counsel for the petitioner that the Appellate Authority had no power to condone the delay in filing the appeal and, therefore, the appeal has been dismissed in view of the statutory provisions of the CGST Act. It is further submitted that the petitioner has no other efficacious alternative remedy for seeking a direction to the Appellate Authority to decide the appeal on merits except by approaching this Court.

4. In view of the provisions of CGST Act, once outer limit of period, which can be condoned by the authority, has been prescribed under the Act, the Appellate Authority is not competent to condone the delay beyond the one month after expiry of three months.

5. Learned counsel for the petitioner submits that, at this stage, the petitioner would be satisfied if the impugned order dated 26.02.2026 (Annexure P-13), passed in appeal, is set aside and the matter is remanded to the Appellate Authority for deciding the appeal on merits instead of dismissing it on the ground of being barred by

limitation, but reserving liberty to the petitioner to challenge the validity/constitutionality of the amendment to Section 17(5)(d) of the CGST Act in appropriate proceedings, if so required, as permissible under law.

6. Detailed impugned order by Appellate Authority was pronounced on 26.02.2026. It was communicated to the petitioner along with a letter dated 10.03.2026 (Annexure P-13) and was uploaded on the Department's website on 17.04.2026 (Annexure P-14).

7. In view of the above, impugned order dated 26.02.2026 (Annexure P-13) is set aside and matter is remanded to the Appellate Authority to decide the appeal afresh on its own merits instead of dismissing it as barred by limitation.

8. Petitioner is directed to ensure its representation/presence before Appellate Authority on **10.08.2026** and thereafter, Appellate Authority shall decide the appeal afresh on merits within 10 weeks.

9. Parties shall be at liberty to avail appropriate remedy, as may be available to them in accordance with law for redressal of surviving grievances, if any.

10. Petition is disposed of in aforesaid terms by reserving liberty to the petitioner to assail the amendment to Section 17(5)(d)

of the CGST Act, if so required/desired, in accordance with law.

Pending miscellaneous application(s), if any, also stand disposed of.

(Vivek Singh Thakur)
Judge

(Ranjan Sharma)
Judge

31st July, 2026
(Pardeep)