



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 4558/2025

M/s M R Traders, Through Its Proprietor Shri Jagdish, S/o Madan Lal, Aged 41 Years, R/o, 0, Roadwej Bus Stand Ke Samne, Deh Road, Nagaur (Rajasthan)-341001.

-----Petitioner

Versus

1. The Union Of India, Through Secretary, Ministry Of Finance, Department Of Revenue, North Block, New Delhi - 110001.
2. The Gst Council, Through The Chairman, Secretariat, 5Th Floor, Tower Ii, Jeevan Bharati Building, Janpath Road, Cannaught Palace, New Delhi - 110001.
3. The Superintendent Cgst Range, Xiii Circle Nagaur, Ward - Iii, Nagaur, Rajasthan.
4. The Additional Commissioner (Appeals) Central Goods And Service Tax, Jodhpur, G-105, New Jodhpur Industrial Area Jodhpur - 342003.

-----Respondents

For Petitioner(s)	:	Mr. Parasmal Chopra, through VC Mr. Aman Rewariya Ms. Prerna Chopra for Mr. PM Chopra Mr. Dinesh Kumar Joshi Ms. Shashi Vaishnav
For Respondent(s)	:	Mr. Lucky Rajpurohit for Mr. Rajat Arora

HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE YOGENDRA KUMAR PUROHIT

Order

Reportable

07/01/2026

Per : Arun Monga, J.

1. Petitioner, a registered proprietor firm under provisions of the Central Goods and Service Tax Act, 2017 and Rajasthan Goods



and Service Tax Act, 2017 (hereinafter referred to as 'CGST Act, 2017 and RGST, Act 2017'), is before this Court *inter alia*, seeking issuance of writ in nature of certiorari and/or any other writ, order or direction quashing the Order-In-Appeal dated 11.10.2024 (Annexure-6) and Order-In-Original dated 09.03.2023 (Annexure-3) whereby its GST registration has been cancelled; and further, issue a writ of mandamus or any other writ, in the nature thereof thereby directing respondents to restore or revoke the GST registration (Annexure-1) of the petitioner.

2. Briefly speaking, case pleaded in the petition is that:-

2.1. That the petitioner is engaged in the business of executing works contract along with whole and retail trade. From the Financial Year ("FY") 2021-22, the petitioner opted for filing the quarterly GST Return under Section 39(1) of the CGST Act, 2017.

2.2. That the petitioner being unaware of the procedural requirement/compliance as prescribed under the GST laws and rules made thereunder had engaged an accountant/local advocate for GST compliance on regular basis. The accountant/local advocate of the petitioner was entrusted with the responsibility of ensuring compliance with all GST related obligations as mandated under the provisions of GST laws, including the filing of GST returns. Since, the incorporation of the firm, all legal compliances were being duly made through the accountant/local advocate.

2.3. That on 15.01.2023, the respondents issued a show cause notice ("SCN") against the petitioner proposing to cancel the GST registration on account of non furnishing of returns for a period of six months. A reply to the SCN was directed to be filed within 30



days from the service of notice. Further, GST registration of the petitioner was suspended with effect from 15.01.2023.

2.4. That on 09.03.2023, the respondents proceeded to pass the Order-in-Original ("O-I-O") cancelling the GST registration of the petitioner solely on the ground of non-filing of quarterly returns with retrospective effect from 01.04.2022.

2.5. That the petitioner, being aggrieved by the O-I-O dated 09.03.2023, which resulted in the cancellation of its GST registration w.e.f 01.04.2022, preferred an appeal before the respondent No. 4 under Section 107 of the CGST Act, 2017 on the GST portal on 18.12.2023 in Form GST APL-01.

2.6. However, there was a delay of 160 days in filing the said appeal by the petitioner as under Section 107 of the CGST Act, 2017. The appeal was required to be filed within 3 months from the date of communication of order (i.e., 09.03.2023) with additional 1 month if there is sufficient cause of delay. But the appeal by the petitioner was filed on 18.12.2023 (delay of approx. 160 days).

2.7. It is stated that the delay was primarily caused by a bona fide belief held by the petitioner that all GST related compliance, including the filing of the appeal, were being managed by the accountant/local advocate who had been entrusted with the responsibility of handling such matters on behalf of the petitioner.

2.8. That due to lack of communication and advisory between the petitioner and the accountant/local advocate, the appeal could not be filed within the prescribed period of limitation (3 months from the date of communication of the order and further additional 1 month) under Section 107 of the CGST Act, 2017.



2.9. The situation was further compounded by the continuous illness and bad health of the petitioner's father, which rendered the petitioner unable to actively follow up on the status of the appeal or monitor the actions of the accountant/local advocate in respect of this order of cancellation or appeal. Consequently, the delay in filing the appeal was neither intentional nor due to any negligence on the part of the petitioner but was a result of unavoidable circumstances on the part of the petitioner.

2.10. That due to the petitioner's (ie., Shri Jagdish) limited understanding of the legal compliance, an application for revocation of cancellation of registration against the cancellation order dated 09.03.2023 could not be filed within the period specified under the GST Act.

2.11. Upon becoming aware of the passing of the above order for cancellation of GST registrations, and availability of a legal remedy against the arbitrary actions of the respondent, the Petitioner promptly appointed a new lawyer/consultant and thereafter immediately filed an appeal on 18.12.2023.

2.12. However, the respondent No. 4 on 11.10.2024 (Date of uploading on portal 19.11.2024) passed the impugned appellate Order whereby the appeal filed by the petitioner was dismissed on the ground of being time barred as per time limit prescribed under Section 107 of the CGST Act, 2017.

2.13. Hence, the instant writ petition.

3. A reply has been file on behalf of the respondents opposing the writ petition, inter alia, taking a stand that a show cause notice was duly issued, to which the petitioner failed to respond within the stipulated time. Consequently, the competent officer



lawfully cancelled the GST registration. Although statutory remedies were available, including revocation of cancellation and appeal within the prescribed limitation under Section 107 of the CGST Act, the petitioner failed to avail them in time. The appeal was filed beyond the maximum condonable period and was therefore rightly dismissed as barred by limitation.

3.1. The justification for delay now advanced i.e., lack of coordination with the accountant/advocate and illness in the family, was neither raised nor substantiated before the appellate authority and constitutes an afterthought. The petitioner admittedly became aware of the cancellation order on 01.04.2023, well within the limitation period, yet remained inactive. The explanations offered are vague, unsupported by evidence, and insufficient in law to constitute "sufficient cause" for delay.

3.2. It is also the defence of the respondents that the writ petition does not disclose any violation of statutory provisions or fundamental rights and merely seeks condonation of delay contrary to the statutory scheme. In the absence of any legal infirmity in the impugned orders or power to condone delay beyond the prescribed period, the extraordinary jurisdiction under Article 226 cannot be invoked. Accordingly, the writ petition is misconceived, devoid of merit, and liable to be dismissed at the threshold.

4. In view of aforesaid backdrop, we have heard the rival contentions and perused the case file. Arguments have been addressed more or less on the lines the stand taken in the respective pleadings of the parties.



5. Learned counsel for the petitioner would inter alia argue that:-

5.1. The appellate authority (Respondent No. 4) acted arbitrarily and in violation of natural justice by rejecting the appeal solely due to a delay of 160 days, without considering the bona fide reasons for the delay i.e. lack of communication and legal advice from the accountant/local advocate and the petitioner's preoccupation with his father's prolonged illness. These circumstances constitute "sufficient cause," warranting condonation of delay, as delay must be judged by cause, not duration.

5.2. The delay arose due to the negligence or omission of the petitioner's accountant/local advocate. Established legal principle is that a litigant should not be penalized for the mistake of counsel, and denial of statutory rights on this basis results in injustice.

5.3. While Section 107 of the CGST Act limits the appellate authority to condone delay only up to 30 days beyond the prescribed period, the High Court retains constitutional power under Article 226 to condone delays beyond this period in appropriate cases to prevent taxpayers from being rendered remediless.

5.4. Even the appellate authority can condone delays beyond the prescribed period when sufficient cause is shown, particularly as the Limitation Act is not expressly or impliedly excluded by Section 107 of the CGST Act. Rejection of appeals mechanically on limitation amounts to failure to exercise jurisdiction.



5.5. Rejection of the appeal solely due to delay unjustifiably restricts the petitioner's fundamental right to carry on trade or business and also infringes the freedom of trade guaranteed under Article 19(1)g read with 301 of the Constitution. Inability to conduct business due to cancellation or non-restoration of GST registration violates the fundamental right to livelihood under Article 21, and appeals in such cases must be decided on merits by condoning the delay where sufficient cause is shown.

5.6. Learned counsel for petitioner, inter alia, relies on D.B. judgment of this Court in **M/s Molana Construction Company v. Central Goods and Service Tax Department**¹ relevant portion thereof is reproduced hereinunder:-

“5.The CGST Act has been enacted to levy taxes on manufacture of certain goods in the form of Central Excise Duty and to consolidate certain provisions of service tax and inter-state sale of goods in the form of Central Sales Tax as also to levy tax by the State Governments on retail sales in the form of Value-added Tax, entry of goods in the form of Entry Tax, Luxury Tax etc. The provisions under the CGST Act besides seeking levy and calculation of taxes are also intended to facilitate commercial and business activities. The legislative intentment in this regard is manifest in the provisions under Section 30 of the CGST Act. In the backdrop of such legislative intentment, the provisions under Section 107 of the CGST Act cannot be frustrated on mere technicalities. A right to appeal as provided under the statute must be decided on merits irrespective of some laches or delay on the part of the Assessee. This is by now too well-settled that the statutory provisions of limitation under Section 107 of the CGST Act would bind the statutory authority which cannot condone the delay except the circumstances envisaged thereunder but such limitations are not applied in a writ proceeding.

6.The powers under Article 226 of the Constitution of India are founded on justice, equity and good conscience and are exercised for public good. Mr. Kuldeep Vaishnav, the learned counsel for the Revenue has referred to a decision of this Court in D.B. Civil Writ No.2430/2024 “Ashok Varandan Vs. Central Baurd of Indirect Taxes and Customs & Ors.” (dated 1st March 2024) to submit that in view of the express bar of limitation under Section 107 of the CGST Act the present writ petition is not maintainable. In this context, we may indicate that the issue in “Ashok Varandani” pertained to filing of statutory return in form GSTR/3B and connected issues. This Court referred to the decision in “Assistant Commissioner (CT) LTU, Kakinada & Ors. Vs. Glaxo Smith Kline Consumer Health Care Limited” reported in (2020) 19 SCC 681, wherein the Hon’ble

¹ D.B. WCP No.12076/2024, Rajasthan High Court





Supreme Court observed that if the Assessee did not avail the alternative remedy of statutory appeal even within the extended period of limitation by seeking condonation of delay then a writ petition shall not be entertained. Quite apparently, the language employed in “Glaxo Smith Kline Consumer Health Care Limited (supra)” reflects that the Court has ample powers to condone the delay in preferring the appeal.

7. For the foregoing reasons, we are inclined to entertain the present writ petition and the order dated 13th June 2024 passed by the Joint Commissioner of CGST is quashed. Consequently, the statutory appeal vide Order-in-Appeal 430 (RSG) CGST/JDR/2024 is restored to its original file subject to the petitioner firm depositing late fee, penalty and other statutory deposits for entertaining the appeal.”

6. Per contra, learned counsel for the respondents relies on two subsequent Division Bench judgments/orders of this very Court passed in D.B. Civil Writ Petition No. 7901/2025 and D.B. Civil Writ Petition No. 20843/2024. He contends DB judgment in Molana, supra, was also cited therein and yet both the division benches dismissed the respective petitions. He argues that no relief ought to be granted where GST registration is cancelled due to prolonged non-compliance and the statutory remedies were not pursued within limitation. In D.B. Civil Writ Petition No. 7901/2025 (order dated 22.04.2025) this Court held that the petitioner failed to reply to the show-cause notice and did not file any application for revocation of cancellation within the prescribed time. The appeal was filed after a long delay and was clearly time-barred. As adequate opportunity had been given and the petitioner was negligent in availing statutory remedies, the Court declined discretionary relief and dismissed the writ petition. In D.B. Civil Writ Petition No. 20843/2024 (order dated 19.08.2025); this Court found that there was no satisfactory explanation for the default, apart from a vague stand and thus refused to condone the delay and dismissed the petition. Relying on two order ibid, dismissal of the instant petition is sought.



7. Having heard, as above, we shall now proceed to render our opinion. The principal question which arises for consideration in the present case is whether the High Court, in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India, is precluded from granting relief merely because the statutory period of limitation prescribed under Section 107 of the Central Goods and Services Tax Act, 2017 has expired; and whether the view taken in **M/s Molana Construction Company v. Central Goods and Service Tax Department, ibid**, represents a correct exposition of law when contrasted with the subsequent Division Bench decisions relied upon by the respondents.

8. The D.B. judgment of this Court in **M/s Molana Construction Company** (supra) holds a statutory right of appeal is a valuable right. Denial of such right on account of procedural lapses, without examining whether such denial leads to manifest injustice or disproportionate consequences, would be contrary to settled principles of law.

9. The two subsequent Division Bench judgments relied upon by the respondents are clearly distinguishable. Those cases turn on their own peculiar facts, particularly the complete absence of explanation. The refusal of relief therein was founded more on the discretionary assessment of conduct rather than on any declaration of law limiting Article 226 jurisdiction. Significantly, those judgments do not undertake any detailed examination of the constitutional power of High Court vis-à-vis statutory limitation, nor do they analyze the legislative intent underlying the CGST Act. They are therefore fact-specific determinations and cannot be read



as laying down a binding principle contrary to Molana Construction.

10. Upon a holistic consideration, it is borne out the view expresses in **M/s Molana Construction Company** (supra) is not diluted or contradicted by the subsequent Division Bench order/decisions relied upon by the learned counsel for the respondents. Subsequent DB orders are confined to their own facts and we therefore adopt the same view as in M/s Molana Construction Company.

11. Furthermore, three other High Courts i.e. Punjab and Haryana High Court², Calcutta High Court³ and Madras High Court⁴ in unison have opined that statutory limitation period as outlined in Section 107 of the CGST, 2017, no doubt, is mandatory on the Appellate authority, however, the constitutional discretion of the High Court vested under Article 226 of the Constitution of India is not curtailed by the said provision. The High Court thus retains the power to condone delays in appropriate cases so as to prevent a business from being rendered incapable of being operated for lack of remedy.

11.1 In fact, perusal of Calcutta High Court judgment, as emphatically relied upon by the learned counsel for the petitioner, would reveal that it is opined therein that even the Appellate Authority is empowered to condone delay under Section 5 of the Limitation Act, 1963 as the said discretion has not been eclipsed and/or taken away by virtue of Section 107 of the CGST Act, 2017. For ready reference, the view expressed by D.B of Calcutta

² Vasudeva Engineering vs. Union of India, reported as 2024(11) TMI 259

³ S.K. Chakraborty & Sons case, reported as (2024) 123 GSTR 229 : 2023 SCC Online Cal 4759

⁴ Chelliah Meenambigai Vs. Commercial of CGST and Central Excise & Ors., reported as 2023 SCC Online MAD 8190



High Court in S.K. Chakraborty & Sons Case is extracted herein below:-

“16. The Co-ordinate Bench in Kajal Dutta (supra) has construed the provisions of Section 107 (1) and (4) of the Act of 2017 and held that, the statute does not state that beyond the prescribed period of limitation the appellate authority cannot exercise jurisdiction.

17. It is in the interest of the nation that litigations come to an end as expeditiously as possible. To achieve such purpose, legislature has enacted the Act of 1963 and prescribed various period of limitation beyond which, the right to approach an authority for redressal of the grievances remain suspended. Apart from the general law of Limitation as prescribed in the Act of 1963, special statutes prescribe period of limitation for specific scenarios and mandates completion of proceedings within the time period specified. Prescription of a period of limitation by a special statute may or may not exclude the applicability of the Act of 1963. In the context of the issue that has fallen for consideration herein the provision 11 of the Act of 1963 particularly Section 29 (2) thereof should be considered.

18. Section 29 (2) of the Act of 1963, has provided for situations where special or local law prescribes a period of limitation different from the period prescribed by the Act of 1963. It has provided that the provisions of Section 3 shall apply as if such period were the period prescribed by the schedule to the Act of 1963, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 to 24 both inclusive shall apply only insofar as and to the extent to which they are not expressly excluded by the special or the local law.

19. Section 107 of the Act of 2017 does not exclude the applicability of the Act of 1963 expressly. It does not exclude the applicability of the Act of 1963 impliedly also if one has to consider the provisions of Section 108 of the Act of 2017 which provides for a power of revision to the designated authority, against an order of adjudication. In case of revision a far more enlarged period of time for the Revisional Authority to intervene has been prescribed. Two periods of limitations have been prescribed for two different authorities namely, the 12 Appellate Authority and the Revisional Authority in respect of the same order of adjudication. Any interference with the order of adjudication either by the Appellate Authority or by the Revisional Authority would have an effect on the defaulter/noticee. Section 107 does not have a non-obstante clause rendering Section 29(2) of the Act of 1963 nonapplicable. In absence of specific exclusion of the Section 5 of the Act of 1963 it would be improper to read an implied exclusion thereof. Moreover, Section 107 in its entirety has not expressly stated that, Section 5 of the Act of 1963 stands excluded.

20. Therefore, in our view, since provisions of Section 5 of the Act of 1963 have not been expressly or impliedly excluded by Section 107 of the Act of 2017 by virtue of Section 29 (2) of the Act of 1963, Section 5 of the Act of 1963 stands attracted. The prescribed period of 30 days from the date of communication of the adjudication order and the discretionary period of 30 days thereafter, aggregating to 60 days is not final and that, in given facts and circumstances of a case,





the period for filling the appeal can be extended by the Appellate Authority.

21. The issue that has been framed is answered in the affirmative, in favour of the appellant and against the revenue.”

At first blush, the aforesaid proposition may appear persuasive.

However, with the utmost respect, we find ourselves unable to subscribe to the view that the statutory Appellate Authority under the CGST regime is empowered to invoke Section 5 of the Limitation Act to condone delay beyond the outer limit prescribed in Section 107(4) of the CGST Act. Let us see how.

11.2. In matters of fiscal legislation, the governing statute must be construed with strictness, leaving virtually limited scope for judicial discretion or equitable latitude. Taxing statutes admit of no intendment; they operate strictly within the four corners of the law. The legislative intent excluding the application of the Limitation Act is manifest and unambiguous from the plain language of Section 107 of the CGST Act, 2017. Perusal thereof makes it clear that the legislature has consciously prescribed a rigid and self-contained limitation framework. Relevant extract of Section 107 of CGST Act, 2017, is as under:-

107. Appeal to Appellate Authority:-

“(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

(2) xxxx (3) xxxxxxxxxxxx

(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.”

Section 107 stipulates a limitation period of three months for filing an appeal by an assessee. It further permits condonation of delay only to the limited extent of one additional month, and that too





upon satisfaction of "sufficient cause." This statutory cap is absolute and admits of no elasticity in the hands of the appellate authority. If the legislative intent were to vest the Appellate Authority with an open-ended discretion to condone delay by importing the Limitation Act, the express ceiling of one month would be rendered otiose. Such an interpretation would amount to rewriting the statute and defeating the clear mandate of Parliament. Had the legislature intended the Limitation Act, 1963 to apply, it would have expressly so provided. The deliberate absence of any such provision in the CGST Act is not accidental. It is determinative. In other words, Limitation Act would apply to a special statute only if its applicability is expressly extended to it.

11.3. Moreover, the Appellate Authority under the CGST Act is a pure creature of statute, deriving both its jurisdiction and its limits from Section 107. Where the legislature, in its wisdom, has consciously conferred a limited discretion to condone delay and has simultaneously circumscribed that discretion by prescribing an express outer boundary of one additional month, the statutory authority is bound hand and foot by such limitation. It is not open to a statutory authority to enlarge its own jurisdiction by importing powers from the Limitation Act, 1963, in the absence of a clear legislative mandate.

11.4. Section 107(4) thus operates as a jurisdictional cap, not a mere procedural guideline. The discretion of the Appellate Authority stands expressly exhausted upon expiry of the additional one month contemplated therein. Any attempt to invoke Section 5 of the Limitation Act to travel beyond this statutorily ordained boundary would amount to rewriting the provision and arrogating



to the authority a power which the legislature has consciously withheld.

11.5. The distinction, therefore, is not one of sympathy or sufficiency of cause, but of jurisdictional competence. While constitutional courts, exercising plenary powers under Article 226 of the Constitution of India, may in appropriate cases condone delay so as to prevent a complete denial of remedy, such constitutional elasticity cannot be transposed into the statutory framework governing the Appellate Authority.

11.6. Thus, we are of the opinion that the statutory scheme under Section 107 admits of no discretion with the appellate authority to grant extension beyond the expressly prescribed period. The application of the Limitation Act stands unequivocally excluded by necessary implication. Accordingly, we hold that the Appellate Authority does not possess the unrestricted discretion under Section 5 of the Limitation Act to condone delay beyond the ceiling prescribed in Section 107(4).

12. It is also pertinent to note that the CGST Act is not a statute enacted solely for revenue collection. It represents a comprehensive fiscal reform intended to consolidate multiple indirect taxes and, at the same time, to facilitate trade, commerce, and business continuity. This legislative intent is clearly discernible from the scheme of the Act, particularly the provisions relating to revocation of cancellation of registration under Section 30 and appellate remedies under Section 107. The emphasis of the statute is thus not merely punitive compliance, but regulated facilitation of economic activity. Any interpretation



which renders statutory remedies illusory on hyper-technical grounds would defeat the very purpose of the enactment.

13. Cancellation of GST registration or missed appellate deadlines should not permanently debar a taxpayer from the GST framework, especially where the taxpayer intends to comply by filing returns, paying taxes, interest, and penalties, and rectifying defaults. In such cases, denial of opportunity to an assessee undermines the inclusive and facilitative objective of the GST regime. Non-restoration of GST registration in such cases also directly impairs the assessee's ability to conduct business, earn a livelihood and leads economic paralysis, thus, violating Articles 14 and 21 of the Constitution by imposing disproportionate and unreasonable hardship.

14. Reverting to the case in hand, as far as explanation qua the sufficient cause leading to the delay in filing the statutory appeal in the present case, we are of the opinion that the petitioner had filed his duly sworn affidavit stating therein that it was due to the fault of the counsel/consultant accountant, who was interested with the responsibility of handling these matters, since, the same requires the expertise of a professional and therefore, they were under the bonafide belief that the needful is being carried out in the consultant counsel.

15. It is stated in the affidavit that it was due to the lack of communication and proper advisory on the part of the counsel/consultant accountant that the petitioner was deprived of taking timely steps to file the appeal within the prescribed period of limitation. Merely, because an objection was taken by the respondents that the affidavit of the petitioner is not accompanied





by supporting affidavit of his consultant accountant/counsel, an act beyond the control of the petitioner, due to change of his counsel by him, the stand taken by petitioner cannot be given a short shrift.

16. Taking a wholesome view, the writ petition is allowed. Impugned appellate order dated 11.10.2024 is set aside. Delay of 160 in filing of the appeal is condoned in exercise of jurisdiction under Article 226 of the constitution of India. The appeal is remanded to the appellate authority for adjudication on merits in accordance with law.

(YOGENDRA KUMAR PUROHIT),J

(ARUN MONGA),J

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