

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Tax Appeal No.03 of 2024
With
I.A. Nos.3464 & 12058 of 2025

Commissioner Central Goods & Service Tax & Central Excise
Jamshedpur, having its office at (old address 143 New Baradwari,
Sakchi, P.O. & P.S. Sakchi, Jamshedpur, District East Singhbhum)
now at GST Bhawan, Outer Circle Road, P.O. & P.S. Sakchi,
Jamshedpur-831001

..... Appellant.

-Versus-

M/s Tata Steel, having its office at Bishtupur, P.O. & P.S.
Bishtupur, Jamshedpur-831001.

..... Respondent.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Appellant :	Mr. P.A.S. Pati, Advocate
	Mr. Anurag Vijay, Advocate
	Mr. Vishwajeet Singh, Advocate
For the Respondent:	Mr. Salona Mittal, Advocate

Order No.11 **Date: 19.01.2026**

1. Heard learned counsel for the parties.
2. I.A. No.3464 of 2025 seeks condonation of delay of 63 days for instituting this appeal under Section 35G of the Central Excise Act, 1944 (hereinafter to be referred as 'the said Act')
3. However, learned counsel for the respondent points out that when this appeal was filed 63 days beyond the prescribed period of limitation, the same was not accompanied by any application seeking condonation of delay. Upon this defect being pointed out by the Registry on 4th April, 2024, such application was filed only on 18th March, 2025.
4. Accordingly, learned counsel for the respondent submitted that this appeal could be regarded as lawfully presented only on 18th March, 2025 after a delay of 428 days. He submitted that there

was no explanation for this delay of 428 days and therefore, the delay condonation application should be dismissed.

5. Learned counsel for the appellant relied on ***State of M.P. & Anr. vs. Pradeep Kumar & Anr.*** reported in ***(2000) 7 SCC 372*** to submit that the filing of a condonation delay application along with a time barred appeal is not a mandatory requirement. He submitted that such failure can always be cured by subsequently filing a delay condonation application as was done in the present case. He submitted that once such application is filed, it relates to the date of presentation of the appeal and therefore, there is more than sufficient explanation for 63 days' delay in instituting the appeal.
6. Without prejudice, the learned counsel for the appellant submitted that even if the delay is taken as 428 days, the supplementary affidavit filed in support of the delay condonation application explains that almost three officials were transferred in the interregnum and on account of communication gaps, such application seeking condonation of delay remained to be filed on record. He submitted that even this constitutes sufficient cause for the entire period of 428 days, which may be condoned.
7. Instead of entering the controversy as to whether the delay in this case should be construed as 63 days or 428 days, we have proceeded on the premise that the delay is 428 days. Still, upon perusal of delay condonation application and the supplementary affidavit, we are satisfied that sufficient cause has been made out for condoning this delay.

8. Firstly, this is a case where the appeal was actually filed about 63 days beyond the prescribed period of limitation. For these 63 days, the explanation offered undoubtedly constitutes sufficient cause. Secondly, after the Registry pointed out the defect, a formal application seeking condonation of delay was filed. There was, some delay in filing this application. However, in such matters, it is not merely the length of the delay but the quality of the explanation offered that is crucial.
9. The supplementary affidavit indicates how three officials were transferred. It also indicates that the matter was missed due to communication gaps, resulting in the failure to file a formal application for condonation of delay.
10. Upon cumulative consideration of all these circumstances, we are satisfied that a sufficient cause has been made out for condonation of even this delay of 428 days.
11. Accordingly, we allow this interim application by condoning the 428-day delay, leaving the contention that the delay was only 63 days open.
12. With the consent of the learned counsel for the parties, we have taken up the appeal itself for admission.
13. The appeal is directed against the impugned order dated 8th June, 2023, passed by the Customs, Excise & Service Tax Appellate Tribunal (CESTAT), by which the CESTAT allowed the assessee's appeal with consequential reliefs as per law. Such appeals can be admitted only if they involve substantial questions of law.

14. One of the grounds on which the CESTAT allowed the Assessee's appeal was that the show-cause notice issued to the assessee was beyond the prescribed period of one year contained in Section 11A(1) of the said Act. The CESTAT noted that there was no suppression established and hence the invocation of the extended limitation period under the proviso to Section 11A(1) was untenable. The CESTAT also noted that the revenue was very much aware that inputs were claimed by disclosing its nexus with galvanisation and consequently, there was no suppression of facts involved.
15. In the appeal memo, as filed 63 days beyond the prescribed period of limitation, the appellant urged the admission of this appeal only on two questions referred to in paragraph no.7 of the appeal memo. These questions related to the merits of the matter, in the sense that they concerned the issue as to whether galvanisation would amount to manufacturing activity under Rule 16 of the Central Excise Rules, 2002. However, no question regarding the delayed issue of the show-cause notice was proposed. This issue goes to the root of the matter, and in the absence of any challenge to this finding, there was no question of admitting this appeal on merits, i.e. on the question as to whether galvanising activity constitutes manufacture.
16. Perhaps, realising this lacuna, the revenue has filed an interlocutory application being I.A. No.12058 of 2025, urging a third question relating to the finding of the CESTAT that the extended period of limitation could not have been invoked.

17. The CESTAT, in its impugned order, has recorded a finding of fact that no suppression was established in this case and, therefore, there was no justification for invoking the extended period of limitation as contained in the proviso to Section 11A(1) of the said Act. This finding of fact is based on the premise that the assessee made full disclosures in the context of a claim for input credits having a nexus with galvanisation. The issue involved is not whether such a claim was proper or improper. The issue involved is whether there was any suppression.
18. Merely because the revenue claims to have discovered that the assessee's claim had a nexus with galvanisation and that the galvanisation did not amount to manufacture for the purposes of Rule 16(2), we cannot say that this was a case of suppression. At the highest, this could be a case of an incorrect claim if the revenue's version is accepted. Learned counsel for the assessee had his own version in the matter. However, we do not propose to go into the rival versions because we are not concerned with the determination of this question on the merits.
19. The finding that there was no suppression established is a pure finding of fact. The same is supported by the material on record and therefore cannot be regarded as some perverse finding of fact. Even the additional question, which is now proposed by filing an interlocutory application, does not allege any perversity in the record of this finding of fact.
20. Therefore, we are satisfied that this appeal involves no substantial questions of law. Once it is established that the

invocation of the extended period of limitation was vulnerable, there was no question of the revenue addressing the matter on the merits. Such merits or demerits, therefore, do not give rise to any substantial questions of law based upon which this appeal is required to be admitted.

21. For the above reasons, we dismiss this appeal as involving no substantial questions of law.
22. No costs.

(M. S. Sonak, C.J.)

(Rajesh Shankar, J.)

19th January, 2026
Sanjay/Rohit
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