

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

D.B. Civil Writ Petition No. 13068/2024

M/s. Oum Sumati Aaditya Con, Shri Dungargarh, Bikaner  
Through Its Proprietor Om Prakash S/o Harchand Ram Aged  
About 57 Years, R/o 206, Ward No. 7, Jato Ka Mohalla, Surjasar,  
Bikaner.

----Petitioner

Versus

1. Goods And Service Tax Council, Through Its Secretary,  
5Th Floor, Tower Ii, Jeevan Bharti Building, Janpath Road,  
Connaught Place, New Delhi 110001.
2. State Of Rajasthan, Through Principal Secretary,  
Department Of Finance, Government Of Rajasthan, 1St  
Floor, Main Building, Government Secretariat, Jaipur-  
302005, Rajasthan.
3. Union Of India, Through Secretary, Department Of  
Revenue, Ministry Of Finance, Government Of India,  
North Block, New Delhi.
4. The Chief Commissioner (Sgst), Commercial Tax Dept.  
Kar Bhawan,, Ambedkar Circle, Jaipur 302005.
5. Assistant Commissioner, Ward Ii, Circle E, State Taxes  
Department, Kar Bhawan, Tulsi Circle, Bikaner.

----Respondents

---

|                   |   |   |
|-------------------|---|---|
| For Petitioner(s) | : | Mr. Shridhar Mehta  |
| For Respondent(s) | : | Mr. Mukesh Rajpurohit, Dy.S.G. for<br>respondent No. 3.<br>Mr. Mahaveer Bishnoi, AAG with<br>Mr. Devendra Prajapat, for respondent<br>Nos. 2, 4 and 5.<br>Mr. Rajvendra Saraswat for<br>respondent No. 1. |

---

**HON'BLE THE CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA  
HON'BLE MR. JUSTICE MADAN GOPAL VYAS**

**Order**

**20/08/2024**

1. Mr. Mukesh Rajpurohit, learned Dy.S.G. appears for  
respondent No. 3. Mr. Mahaveer Bishnoi, learned AAG appears for

respondent Nos. 2, 4 and 5 and Mr. Rajvendra Saraswat, learned counsel appears on behalf of respondent No. 1.

2. Further submissions have been made that the petitioner has questioned the validity of provisions of Section 107(4) of the CGST/SGST Act, 2017 ('the Act') as well as notification dated 02.11.2023 issued under Section 148 of the Act.

3. Submissions have been made that the provisions of Section 107(4) of the Act restricts the right of the appellate authority to condone the delay in filing appeal by one month only and that though, notification dated 02.11.2023 has been issued *inter alia* providing for extended period of limitation in cases where the orders have been passed on or before 31.03.2023, the said date has no rationale, inasmuch as, when the order was issued on 02.11.2023, in several other cases where the orders were passed even after 31.03.2023, in those cases also the appeals had already become barred by limitation.

4. Further submissions have been made that petitioner is prepared to deposit 12½ % amount of the 'tax in dispute' in terms of the notification dated 02.11.2023.

5. Learned counsel appearing for the respondents pray for time to complete their instructions in the matter/file reply.

6. Time prayed for is allowed.

7. List the petition along with D.B. Civil Writ Petition No.892/2024 and connected matters, list of which may be supplied in the Registry by Mr. Rajvendra Saraswat.

8. In the meanwhile and till the next date, in case the petitioner deposits 12.5% of the amount of 'tax in dispute' within a period of

one week, the recovery of/action *qua* rest of the amount pursuant to the demand dated 29.08.2023 (Annex-2) shall remain stayed.

9. For the rest of the amount, the petitioner would submit solvent security to the satisfaction of Assistant Commissioner, Ward II, Circle E, State Taxes Department, Kar Bhawan, Tulsi Circle, Bikaner (respondent No. 5).

10. As the interim order has been passed in presence of learned counsel for the respondents, they would be free to seek vacation of the interim order after filing response to the writ petition.

**(MADAN GOPAL VYAS),J**

**(MANINDRA MOHAN SHRIVASTAVA),CJ**

47-Dinesh/-