HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 38/2024
CNR: RJHC021060682023 | URN: CW / 71U / 2024

Aakar Constructions (Firm), Through Partner Shri Sanjeev Singh At Registered Office 113, Janakpuri-Ii, Imliwala Phatak, Jaipur, Rajasthan-302013.

----Petitioner

Versus

1 Dy. Commissioner, Circle-J, Jaipur-Iii, Ac / Cto, Ward-Circle-J, Jaipur-Iii, Commercial Taxes Department, Jaipur, Rajasthan.

2 Joint Commissioner (Appeals), Commercial Taxes Department, Kar Bhawan, Jaipur, Rajasthan.

3 State Of Rajasthan, Through Finance Secretary, Secretariate, Jaipur.

4 Union Of India, Through Finance Secretary, Ministry Of Finance, North Block, Delhi.

----Respondents

<u>Connected With</u>

D.B. Civil Writ Petition No. 768/2024
CNR: RJHC020039522024 | URN: CW / 1462U / 2024

Aakar Constructions (Firm), Through Partner Shri Sanjeev Singh At Registered Office 113, Janakpuri-Ii, Imliwala Phatak, Jaipur, Rajasthan-302013

----Petitioner

Versus

1 Dy. Commissioner, Circle-J, Jaipur-Iii, Ac/cto, Ward-Circle-J, Jaipur-Iii, Commercial Taxes Department, Jaipur, Rajasthan

2 Joint Commissioner (Appeals), Commercial Taxes Department, Kar Bhawan, Jaipur, Rajasthan

3 State Of Rajasthan, Through Finance Secretary, Secretariate, Jaipur.

4 Union Of India, Through Finance Secretary, Ministry Of Finance, North Block, Delhi.

----Respondents

For Petitioner(s)	:	Mr. Shradha Agarwal
For Respondent(s)	:	Mr. Kinshuk Jain, Sr. Standing Counsel (CBIC)

HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

Order

03/09/2026

1. The petitioner herein, *inter alia,* seeks quashing and setting aside of the impugned notice dated 27.04.2023 and the Order-in-Original dated 15.05.2023, passed by Deputy Commissioner, Circle-J, Jaipur-III, whereby GST demand of Rs.36,57,242/- (for Tax Period: March 2023), was raised on the account of GST return not being filed for the said period by the petitioner. The petitioner also seeks quashing of the impugned seizure Order dated 29.08.2023 and all the consequential notices and orders passed in pursuance thereto. The appeal against the said Order-in-Original could not per force be filed before the Appellate Authority as the online status of the appeal would reveal that the same is time-barred. Aggrieved by the same, petitioner filed the instant writ petition on 20.12.2023.

2. Learned counsel for the petitioner submits that the delay in filing the appeal is *bona fide* and not intentional. It is submitted that the petitioner could not avail the appellate remedy within the prescribed period as the impugned notice dated 27.04.2023 and the Order-in-Original dated 15.05.2023 were never effectively served upon the petitioner. The said notice and Order-in-Original were merely uploaded on the GST Portal and, since there was a dispute amongst the partners of the petitioner-firm, none of the partners noticed the said notice and

Order-in-Original. Hence, the same remained beyond the knowledge of the petitioner.

2.1 Learned counsel for the petitioner further submits that the petitioner, through its partners, came to know of the Order-in-Original dated 15.05.2023 only on 29.08.2023, when its bank account was seized *vide* order dated 29.08.2023, passed in pursuance of the said Order-in-Original. He submits that, upon acquiring knowledge of the impugned order, the petitioner took steps to comply with the statutory requirements and avail the appropriate remedy. However, by then, the appeal had become time-barred on the GST Portal.

2.2 Hence, the present writ petition.

3. Heard and perused the case file.

4. At the outset, learned counsels for the respondents object to the maintainability of the writ petition herein stating that the alternative remedy as provided under Section 107 of the CGST Act, 2017, has not been availed.

5. Statutory remedy by way of an appeal under Section 107 of the CGST Act, 2017 before the Appellate Authority is provided against the impugned order dated 15.05.2023. For ready reference, Section 107 of the CGST Act, 2017 reads as under:-

> *"**Section 107. Appeals 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."*
>
> *x-x-x-x-x*

6. In view of the aforesaid, we are not inclined to directly entertain the writ petition without the petitioner exhausting its alternate statutory remedy.

7. The facts on record reveal that the instant writ petition was filed against the impugned Order-in-Original on 20.12.2023, i.e., after a delay of 99 days beyond the statutory period prescribed for filing an appeal under Section 107 of the RGST/CGST Act, 2017. Having considered the reasons stated by learned counsels for the petitioner, we are satisfied that the delay occurred due to circumstances beyond the control of the petitioner.

8. Learned counsel for the petitioner, relying on the various Division Bench judgments of this very Court in **M/s M R Traders v. UOI[1], M/s Molana Construction Company v. Central Goods and Service Tax Department & Ors[2], Man Singh Tanwar v. Commissioner, Central goods and Services Tax Department & Ors.[3], RPC PSIPL JV Vs. State of Rajasthan & Ors[4] and RPC PSIPL JV Vs. State of Rajasthan & Ors[5]** argues that sufficient cause of delay in filing the appeal due to circumstances beyond control has been shown and thus appeal be directed to be considered on merits after condoning the delay by this Court.

9. In the judgments cited above, this Court, while allowing the writ petitions, have issued directions to entertain the appeal on merits even if, the same were time barred, provided sufficient cause was shown.

10. Accordingly, the Appellate Authority is directed to entertain the appeal of the petitioner and adjudicate the appeal on merits, provided

1 2026 SCC OnLine RAJ 2115
2 2024 SCC OnLine Raj 3938
3 D.B. CWP 14658/2024
4 D.B. CWP 7260/2025
5 D.B. CWP 11794/2025

the same is filed within 30 days of the instant order being uploaded on the website of this court.

11. Disposed of accordingly, with liberty as above. All pending applications also stand disposed of.

(ASHUTOSH KUMAR),J (ARUN MONGA),J

50-51/TUSHAR/AARZOO