HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 6470/2024

M/s Sitaram Chaturbhuj Garg, Khatoli , Tehsil-Pipalada, Kota Rajasthan Through Its Proprietor Shri Ramesh Chand Garg S/o Shri Laddu Khatoli Tehsil Pipalada Kota Rajasthanlal Garg , Aged 64 Years(Approx).

----Petitioner

Versus

1. The Union Of India, Through Chief Commissioner, Central Goods And Service Tax And Central Excise , New Central Revenue Building, Statute Circle, C-Scheme, Jaipur (Raj) 302005.
2. The Commissioner, Commissionerate Of Central Goods And Service Tax And Central Excise, 142-B, Sector-11, Hiran Magri, Udaipur (Raj).
3. The Assistant Commissioner, Central Goods And Service Tax And Central Excise Dvision H, Central Revenue Building , C.a.d. Circle, Dadabari Road, Kota (Raj). 324005.
4. Commissioner (Appeals), Central Goods And Service Tax And Central Excise, G-1-5, New Jodhpur Industrial Area, Basni, Jodhpur (Raj).
5. The State Of Rajasthan, Through Chief Commissioner Of State Tax, Commercial Tax Department, Kar Bhawan, Bhagwan Das Road, Near High Court Circle, Jaipur.

----Respondents

For Petitioner(s)	:	Mr. Naresh Gupta
For Respondent(s)	:	Ms. Mahi Yadav, AAG Mr. Ajay Shukla with Mr. Raghav Sharma and Mr. Shivam Sharma Ms. Jyoti Sharma

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HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE BIPIN GUPTA

Order

08/05/2026

1. Learned counsel for the petitioner submits that there was no delay in filing the appeal under Section 107 of the CGST Act, as the delay of 4 days beyond the period of three months is provided under Section 107 of the Act. He further submits that if the period is counted from the date of uploading of the order, the period of 4 days would also stand condoned.

2. It would be apposite to quote the provisions of Rule 108 of the CGST Act, which provides as under:-

> *"**108.** Powers of Revisional Authority.— (1) Subject to the provisions of section 121 and any rules made thereunder, the Revisional Authority may, on his own motion, or upon information received by him or on request from the Commissioner of State tax, or the Commissioner of Union territory tax, call for and examine the record of any proceedings, and if he considers that any decision or order passed under this Act or under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of revenue and is illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, stay the operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.*
>
> *(2) The Revisional Authority shall not exercise any power under sub-section (1), if—*
>
> *(a) the order has been subject to an appeal under section 107 or section 112 or section 117 or section 118;or*
>
> *(b) the period specified under sub-section (2) of section 107 has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised; or*
> *(c) the order has already been taken for revision under this section at an earlier stage; or*
>
> *(d) the order has been passed in exercise of the powers under sub-section (1): Provided that the Revisional Authority may pass an order under sub-section (1) on any point which has not been raised and decided in an appeal referred to in clause (a) of sub-section (2), before the expiry of a period of one year from the date of the order in such appeal or before the expiry of a period of three years referred to in clause (b) of that subsection, whichever is later.*

(3) Every order passed in revision under sub-section (1) shall, subject to the provisions of section 113 or section 117 or section 118, be final and binding on the parties.

(4) If the said decision or order involves an issue on which the Appellate Tribunal or the High Court has given its decision in some other proceedings and an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Tribunal and the date of the decision of the High Court or the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2) where proceedings for revision have been initiated by way of issue of a notice under this section.

(5) Where the issuance of an order under sub-section

(1) is stayed by the order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2).

(6) For the purposes of this section, the term,––

(i) ―record‖ shall include all records relating to any proceedings under this Act available at the time of examination by the Revisional Authority;

(ii) ―decision‖ shall include intimation given by any officer lower in rank than the Revisional Authority."

3. Keeping in view the aforesaid provisions, we allow this writ petition and set aside the order 05.02.2024 passed by the Appellate Authority and direct the Appellate Authority to decide the appeal on merits, treating it to be within time.

4. The petition is, accordingly, disposed of. Pending application, if any, also stand disposed of.

(BIPIN GUPTA),J (SANJEEV PRAKASH SHARMA),ACTING CJ

ANIL SHARMA/64