HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 8449/2026
CNR: RJHC020390272026 | URN: CW / 18665U / 2026

M/s Chitra Industries, Having Its Office At A-16A, Mahaveer Nagar 1St, Tonk Road, Jaipur, Rajasthan, Through Its Proprietor Mrs. Chitra Bansal, W/o Shri Mukesh Bansal, Aged About 44 Years, R/o A-16A, Mahaveer Nagar 1St, Tonk Road, Jaipur

----Petitioner

Versus

1. State Of Rajasthan, Through Joint Secretary (Tax), Finance Department (Tax Division), 1St Floor, Main Building, Government Secretariat, Jaipur
2. Union Of India, Through Revenue Secretary, Department Of Revenue, Ministry Of Finance, North Block, New Delhi 110001
3. Commissioner Appeal Iii, Commercial Taxes Department, Rajasthan, Room No. 113-114, Kar Bhawan, Ambedkar Circle, Jaipur 302005
4. Assistant commissioner of state tax, commercial taxes department, ward-ii, circle-h, jaipur III, room no. 420, Zonal Kar Bhawan, Jhalana, Jaipur

----Respondents

For Petitioner(s)	:	Mr. Gunjan Pathak with Mr. Kanishk Singhal
For Respondent(s)	:	Ms. Mahi Yadav, AAG with Ms. Chelsi Agarwal Mr. Khem Chand Sharma

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

Order (Oral)

03/08/2026

Per: Arun Monga, J.

1. The petitioner herein, *inter alia*, seeks a direction commanding respondent No.3 to condone the delay and allow the filing of appeal

against the impugned Order in Original dated 27.10.2023 and the Rectification rejection Order dated 07.07.2025, passed by the Assistant Commissioner, Circle II, Jaipur III, GST demand of Rs.10,75,210/- for Financial Year 2017-18, was raised on the account of wrongful availment of Input Tax Credit by the petitioner.

2. The facts of the case, in brief, are that the petitioner received a system generated e-mail dated 18.05.2023, from the GST portal intimating issuance of a show cause notice. However, as per the petitioner, neither the notice nor any attachment was made available on the portal or served physically. Thereafter, on 27.10.2023, the petitioner received another system generated e-mail intimating that an adjudication order had been uploaded on the GST portal. By ex parte Order dated 27.10.2023, the proper officer raised a demand of Rs. 10,75,210/-.

2.1 Subsequently, the petitioner filed an application under Section 161 of the CGST/RGST Act seeking rectification of the Order dated 27.10.2023. The said application came to be rejected by the Order dated 07.07.2025 on the ground that it had been filed beyond the period prescribed under Section 161 and was therefore, barred by limitation.

2.2 Aggrieved by the Order dated 07.07.2025 rejecting the rectification application, the petitioner preferred a statutory appeal under Section 107 of the RGST Act on 29.11.2025, along with an application seeking condonation of delay on the ground of illness. The Appellate Authority, by order dated 20.02.2026, dismissed the appeal on the ground that it had been filed beyond the period prescribed under Section 107 of the Act and was not maintainable, without examining the merits of the case.

2.3 Hence, the instant writ petition which was filed on or around 22.04.2026.

3 Learned counsel for the petitioner submits that the delay in filing the appeal is *bona fide* and not intentional. He contends that the delay in filing the appeal occurred as the petitioner was never served with the Show Cause Notice dated 18.05.2023 in accordance with Section 169 of the CGST/RGST Act, 2017, nor was any effective opportunity of hearing afforded before passing the ex parte adjudication order dated 27.10.2023. It is submitted that the proceedings were conducted behind the petitioner's back and that the petitioner became aware of the order only subsequently, as the statutory mode of service had not been complied with.

3.1 As stated in the order dated 20.02.2026, the petitioner also contended that the impugned order dated 27.10.2023 could not be challenged within the prescribed period as the petitioner was suffering from serious health issues during the relevant period, rendering him unable to take timely steps for filing the appeal. In support of the said bona fide reason, the petitioner has produced medical consultation records and medicine bills evidencing the illness and treatment undergone during the relevant period.

3.2 Learned counsel for the petitioner further submits that the petitioner has acted diligently and filed the appeal under Section 107, *ibid*, immediately upon being in a position to do so. On these grounds, it is argued that the delay in filing deserves to be condoned.

4. Learned counsels for the respondents oppose the above submission and contends that the impugned order has rightly been passed and appeal under Section 107 of CGST Act, 2017 was barred by

limitation. In any case the writ is not maintainable as alternative remedy under Section 112 of CGST Act, 2017 has not been awaited.

5. In the aforesaid backdrop, we have heard the learned counsels for the parties and perused the record.

6. At the outset on a court query as to why appeal has not been preferred under Section 112 of CGST Act, 2017, *ibid,* it transpires that when the writ was filed Tribunal was not functioning.

7. Be that as it may, stand taken by the respondent in para 14 of the reply is as under:-

> *"14. It is humbly submitted by answering respondents that GST tribunal has duly been constituted in exercise of the powers conferred under sub-section 4 of section 109 of CGST Act, 2017 vide No. F. No. A-50050/150/2018-CESTAT-DOR dated 14.09.2023 passed by Ministry of Finance, Department of Revenue tribunal has become functional as process of filling Appeal has been initiated vide notification No. F12(4)FD/Tax/2026-27 DATED 16.02.2026 passed by Finance department (Tax Division) Government of Rajasthan. It is pertinent here to mention that the Appointment of member for tribunal has also be done. Hence, once The GST Appellate Tribunal has been constituted the petitioner should have availed the effective and efficacious remedy of appeal available under section 112, rendering the present petition to be dismissed in limine in view of availability of alternative remedy. Notification No. F12(4)FD/Tax/2026-27 dated 16.02.2026 is enclosed herewith and marked as Annexure R/5."*

8. In view of aforesaid, the instant writ petition is disposed of with liberty to avail the appellant remedy as provided under Section 112 of CGST Act, 2017. In case, the appeal is filed within a period of 30 days from today, the time spent before this Court shall not be computed for the purpose of limitation.

9. All pending applications stand disposed of.

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

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