

**08.7.2025**  
Sl. No.27  
Court no.IV  
**nb**

**CIRCUIT BENCH OF CALCUTTA HIGH COURT  
AT JALPAIGURI**

**WPA 1274 of 2025**

**Suresh Kumar Jindal**  
**Vs.**  
**The Assistant Commissioner, CGST & Central**  
**Excise. & Ors.**

Mr. Deborshi Dhar,  
Ms. Pooja Maiya,  
.... for the petitioner.

Mr. Ratan Banik,  
Mr. B. Agarwal,  
Mr. Saptarshi Banik,  
.... for the respondents.

The petitioner has assailed an adjudication order dated August 31, 2023. It is submitted that the adjudication order was not available on the portal and as such the petitioner could not file the appeal within the prescribed period.

It is submitted on behalf of the petitioner that on instructions, that although the provision for filing appeal manually is there in the statute book yet, appeal cannot be filed manually in reality.

Learned counsel appearing for the respondent/CGST submits that the grievance of the petitioner is without basis. It is submitted that the petitioner was duly served with a physical copy of the order impugned. In fact, paragraph 6 of the writ

petition also shows that the petitioner received the adjudication order physically.

Attention of this Court has been drawn Rule 108 to the proviso to Rule 108 of the CGST Rule 2017 and it is submitted on behalf of the respondents that the contention of the petitioner that despite provision appeal cannot be filed manually cannot be accepted.

Heard the learned advocates for the respective parties and considered the material on record.

Rule 108 of the CGST Rule 2017 read thus:

“108,(1) An appeal to the Appellate Authority under sub-section(1) of section 107 shall be filed in FORM GST APL-01, along with the relevant documents, and a provisional acknowledgement shall be issued to the appellant immediately:

[Provided that an appeal to the Appellate Authority may be filed manually in FORM GST APL-01, along with the relevant documents only if-

(i) The Commissioner has so notified, or

(ii) The same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the common portal,

And such case, a provisional acknowledgement shall be issued to the appellant immediately.”

On a plain reading of the aforesaid provision it is clear that a person aggrieved by an order can file an appeal manually also upon receiving a copy of the said

order and therefore non-uploading of the said order on the portal of the CGST cannot be a ground for not filing an appeal within time. In such view of the matter non-availability of the order on the GST portal cannot also be a ground for filing a writ petition.

This writ petition is therefore disposed of leaving the petitioner free to prefer an appeal in terms of Rule 108 of the CGST Rule in accordance with law.

It is made clear that this order shall not be treated as a mandate to condone the delay occasioned by the petitioner and prayer for condonation of delay shall be decided by the appellate authority in accordance with law.

**(Om Narayan Rai, J.)**