



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D. B. Civil Writ Petition No. 2957/2024

Akshansh Consultancy Services Private Limited, through its Director Sarita Pareek D/o Keshav Dev Pareek Aged Around 44 Years, R/o 206, Second Floor, Ganesham Tower, Amrapali Road, Vaishali Nagar, Jaipur, Rajasthan 302021

-----Petitioner

Versus

1. Deputy Commissioner, Circle-C, Jaipur-III, Ac/ctd, Ward Circle-C, Jaipur-III, Rajasthan.
2. Central Board of Indirect Taxes And Customs, Department Of Revenue, Ministry Of Finance, Government of India, Having Its Address At North Block, New Delhi Through Its Chairman.
3. Union Of India, Through Secretary, Ministry Of Finance, Department Of Revenue, New Delhi
4. State Of Rajasthan, Through The Principal Secretary, Ministry Of Finance, Secretariat, Jaipur.

-----Respondents

For Petitioner(s) : Ms. Sweta Soni
For Respondent(s) :

**HON'BLE THE CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA
HON'BLE MR. JUSTICE ANAND SHARMA**

Order

01/04/2025

(Per Hon. Sharma, J.)

1. By way of filing the instant writ petition, the petitioner has assailed the legality, validity and propriety of order dated 30.10.2023 (Annx.-7) passed by the Appellate Authority, whereby the appeal filed by the petitioner under Section 107 of Rajasthan Goods and Service Tax Act, 2017 (for short, 'the Act of 2017') was dismissed on account of being time barred. The petitioner has also



challenged orders dated 13.06.2023 & 19.05.2023 (Annx.-1 & 2) passed by the assessing authority under Section 62 of the Act of 2017.

2. Petitioner has come out with a case that the assessing authority has wrongly assessed the tax and has also imposed interest and penalty in arbitrary manner and on the basis of erroneous assumption. It was stated by the petitioner that on account of medical reasons, earlier GSTR-1 & GSTR-3B for the month of March & April, 2023 could not be filed on time and were submitted with delay by the petitioner.

Petitioner has also stated that although petitioner initially submitted application for rectification and subsequently also filed an appeal under Section 107 of the Act of 2017, yet the appeal was not entertained by the Appellate Authority on account of being time barred.

3. We perused the record of the writ petition and heard learned counsel for the petitioner.

4. It has been argued by the counsel for the petitioner that assessing authority had passed the assessment order on unfounded and baseless considerations, in quite mechanical manner. Even the Appellate Authority did not consider the appeal on merits and the same was dismissed only on account of being filed beyond the limitation, which has caused grave prejudice and miscarriage of justice to the petitioner.

5. Section 107(1) of the Act of 2017 deals with filing of appeal against assessment order and also prescribes limitation period of three months for filing appeal, which can be extended by the Appellate Authority for a maximum period of further one month,



that too after being satisfied that the Appellant was prevented by sufficient cause from presenting the Appeal within the prescribed limitation period.

6. In the instant case, as per the facts submitted by the petitioner in memo of writ petition, the appeal against the assessment orders dated 13.06.2023 & 19.05.2023 was filed on 26.10.2023, which is admittedly beyond the period of limitation prescribed under the Act of 2017. Nowhere, it has been stated in the memo of petition by the petitioner that at any point of time, request was made by the petitioner for condoning the delay. Even otherwise, in view of Section 107(4) of the Act of 2017, the Appellate Authority had no power to condone the delay, after expiry of one month beyond the prescribed period of limitation.

Hence, the Appellate Authority has rightly rejected the appeal filed by the petitioner after expiry of the limitation period prescribed under the Act.

7. It would also be relevant to refer the judgment delivered by the Hon'ble Apex Court in the case of **Assistant Commissioner (CT) LTU, Kakinanda & Ors. Vs. Glaxo Smith Kline Consumer Health Care Limited, (2020) 19 SCC 681**, where the question before the Hon'ble Apex Court was as to whether the High Court could have entertained the writ petition under Article 226 of the Constitution of India on the ground that the statutory remedy of appeal against that order stood foreclosed by law of limitation. The Hon'ble Supreme Court after examining the question with regard to the maintainability of the writ petition after expiry of statutory limitation period has given a clear verdict that under the circumstances, where the assessee had failed to



avail the remedy of appeal within limitation, the High Court cannot entertain the writ petition and the same deserve to be rejected at the threshold.

8. The aforesaid judgment of Hon'ble Supreme Court was relied upon by this Court in **D.B. Civil Writ Petition No.1615/2024 (M/s Thekedar Girraj Prasad Garg Vs. State of Rajasthan & Ors.)** decided on 04.04.2024, in which this Court has held that where the assessee has waited for expiry of period of limitation for filing the appeal as well as for expiry of maximum permissible period of condonation, the writ petition is not maintainable.

9. The petitioner has also not come out with a case that the order passed by the assessing authority was either without jurisdiction or was passed in violation of principles of natural justice.

10. Hence, under these circumstances, we find no illegality or infirmity in the impugned orders and the writ petition filed by the petitioner deserves to be dismissed.

11. Hence, the same is accordingly dismissed in limine.

(ANAND SHARMA),J

(MANINDRA MOHAN SHRIVASTAVA),CJ

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