IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1024 OF 2025

Reliance Securities Limited .. Petitioner

Versus

The Commissioner (Appeals)-II
of CGST & Central Excise, Mumbai & Ors .. Respondents

Mr. Anay Banhatti *a/w Mr. Siddhant Chhabra, Advocates for the Petitioner.*

Ms. Maya Majumdar *a/w Ms. Megha Bajoria, Advocates for the Respondent.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.

DATE: APRIL 8, 2025

P. C.

1. Rule. Respondents waive service. The Rule is made returnable immediately at the request of and with the consent of the learned Counsel for the parties and heard finally.

2. This Petition challenges the Order-in-Appeal No.SK/395/Appeals-II/ME/2023-24 dated 18th April 2024 read with Rectification Rejection Order dated 24th October 2024 by which the

Petitioner's Appeal before the Respondent No.1 was dismissed on the ground that the same was instituted beyond three months from the date of communication of the order as required under Section 107(1) of the CGST Act, 2017.

3. From the record we find that Respondent No.1 disregarded the evidence of the date of communication of the order produced before him by the Petitioner in the form of speed-post tracking slip, postal stamp on the envelope and a specific affidavit filed. At the same time, Respondent No.1 did not have any contrary evidence to doubt correctness of the evidence produced by the Petitioner. The Application seeking rectification of his order was also dismissed by the Respondent No.1 by his order dated 24th October 2024.

4. As stated above, we find that no contrary evidence is produced by Respondent No.1 to doubt the correctness of the claim of the Petitioner about the date of communication of the Order-in-Original dated 24th April 2023 being 29th April 2023. The difference in the date of the Order-in-Original and the date of receipt as claimed by the Petitioner is reasonable. Even otherwise, under Section 107(4) of the CGST Act, 2017, Appeal can be filed within the extended period of one month and in the present case, the alleged delay, if any, is only of 4 days.

5. Further the learned Counsel for the Respondents, on instructions, stated that Respondent No.2 has verified and confirmed that in fact, the date of the receipt of the Order-in-Original is 29th April 2023.

6. Considering the facts and circumstances of this case, we set aside the Impugned Order dated 18th April 2024 along with Rectification Order dated 24th October 2024 and restore the Petitioner's appeal to the file of Respondent No.1 for consideration on merits. All contentions of the parties on merits are left open. Respondent No.1 shall grant an opportunity of hearing to all the parties and pass a reasoned order.

7. Respondent No.1 must dispose of the Appeal as expeditiously as possible, and in any event, on or before 30th June 2025. The order should be communicated to the parties no sooner than it is made.

8. Rule is made absolute in the above terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

9. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**

Uday S. Jagtap