

A2Z Taxcorp LLP

Supreme Court's COVID Limitation Exclusion Applies to GST Appeals and Cannot Be Rejected as Time-Barred

The Hon'ble Gujarat High Court in the case of *Marvin Enterprise v. State of Gujarat & Ors.* [R/Special Civil Application No. 4869 of 2026, order dated April 09, 2026] held that the benefit of limitation exclusion granted by the Supreme Court in Suo Motu *Writ Petition (C) No. 3 of 2020 Order dated January 10, 2022* must be applied while computing limitation under Section 107 of the CGST Act, and consequently, an appeal filed within the extended condonable period cannot be rejected as time-barred.

Facts:

Marvin Enterprise ("**the Petitioner**"), a proprietary concern engaged in trading of chemical products, was registered under GST and received a show-cause notice alleging issuance of invoices without supply of goods. Despite submitting a reply, its GST registration was cancelled by order dated January 01, 2022.

The State of Gujarat & Ors. ("**the Respondent**") rejected the Petitioner's appeal filed on June 06, 2022 against cancellation, by Order-in-Appeal dated April 19, 2024, solely on the ground that it was filed beyond the statutory limitation period of four months under Section 107.

The Petitioner contended that the period from March 15, 2020 to February 28, 2022 ought to be excluded in terms of the Supreme Court's order in Suo Motu *Writ Petition (C) No. 3 of 2020 Order dated January 10, 2022* and therefore, limitation should be computed from March 01, 2022, making the appeal within the condonable period.

Aggrieved by rejection of appeal on limitation without considering the Supreme Court's exclusion order, the Petitioner approached the High Court by filing a writ petition seeking quashing of the appellate order.

A2Z Taxcorp LLP

Issue:

Whether the appeal filed by the Petitioner was beyond the period of limitation prescribed under Section 107(4) of the CGST Act, 2017?

Held:

The Hon'ble Gujarat High Court in *R/Special Civil Application No. 4869 of 2026* held as under:

- Observed that, the Supreme Court in Suo Motu *Writ Petition (C) No. 3 of 2020 In Re: Cognizance For Extension Of Limitation, order dated January 10, 2022* categorically directed that the period from March 15, 2020 till February 28, 2022 shall stand excluded for the purposes of limitation, in respect of all judicial or quasi-judicial proceedings.
- Noted that, in the present case, the limitation period started from March 01, 2022 and not from January 01, 2022 as assumed by the appellate authority.
- Observed that, if computed from March 01, 2022, the period of 120 days would get over on June 30, 2022 and the appeal being filed on June 06, 2022 falls between the extended period of one month i.e. from period of 90 days to 120 days.
- Held that, since the appeal was within the condonable period under Section 107(4), it was within the discretion of the authority to condone the delay if he was satisfied with the grounds.
- Observed that, the appellate authority's conclusion that the appeal was beyond 120 days was erroneous and is therefore required to be quashed and set aside.
- Directed that, the matter be remanded to the appellate authority to consider condonation of delay on merits and thereafter decide the appeal in accordance with law.

Our Comments:

A2Z Taxcorp LLP

The present judgment follows the ratio of that of the Supreme Court judgment In Re: Cognizance for Extension of Limitation, Suo Motu Writ Petition (C) No. 3 of 2020 wherein it was directed that “the period from 15.03.2020 till 28.02.2022 shall stand excluded” for limitation under all general and special laws and interpreting that such exclusion applies uniformly to quasi-judicial proceedings including GST appeals under Section 107.

Further the reasoning adopted by the Bombay High Court in *M/s. NovaCare Drug Specialities Pvt. Ltd. v. State of Goa & Ors. [2023 (8) TMI 53 – Bombay High Court]*, held that having regard to the Supreme Court's orders and the subsequent restoration in Cognizance for Extension of Limitation, the period from 15.03.2020 till 28.02.2022 must be excluded for the purposes of computing limitation for judicial and quasi-judicial proceedings.

Relevant Provisions:

Section 107 of the CGST Act, 2017

“107. Appeals to Appellate Authority.-

(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

(2) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination

A2Z Taxcorp LLP

of such points arising out of the said decision or order as may be specified by the Commissioner in his order.

(3) Where, in pursuance of an order under sub-section (2), the authorised officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.

(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.”

[CLICK HERE FOR OFFICIAL JUDGMENT COPY](#)

(Author can be reached at info@a2ztaxcorp.com)

DISCLAIMER: The views expressed are strictly of the author and A2Z Taxcorp LLP. The contents of this article are solely for informational purpose and for the reader's personal non-commercial use. It does not constitute professional advice or recommendation of firm. Neither the author nor firm and its affiliates accepts any liabilities for any loss or damage of any kind arising out of any information in this article nor for any actions taken in reliance thereon. Further, no portion of our article or newsletter should be used for any purpose(s) unless authorized in writing and we reserve a legal right for any infringement on usage of our article or newsletter without prior permission.