Limitation for filing GST appeal runs from the date of actual communication of the order as declared by the dealer unless rebutted by the Revenue through cogent material

The Hon'ble Allahabad High Court in ***Wilh Loesch India Pvt. Ltd. v. Deputy Commissioner and Another [Writ Tax No. 2765 of 2026 dated May 27, 2026]*** quashed the appellate order dismissing the appeal solely on the ground of limitation, without entering into the merits, and held that once the Assessee discloses the actual date of communication of the adjudication order, the onus shifts on the Revenue to rebut the same through cogent material, and in the absence thereof, the date of communication as declared by the dealer shall be treated as the date of actual communication and the limitation shall arise from such date.

Facts:

M/s Wilh Loesch India Pvt. Ltd. (**"the Petitioner"**) was subjected to an assessment/adjudication order passed by the Proper Officer under the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**). The Petitioner acquired knowledge of the said order only on November 09, 2025, upon initiation of the recovery proceedings against it.

The Petitioner preferred an appeal against the adjudication order before the Appellate Authority along with an application for condonation of delay, wherein it was specifically pleaded that the order was communicated to the Petitioner only on November 09, 2025.

However, the Appellate Authority, without considering the aforesaid plea and in the absence of any cogent material on record, treated the date of passing of the adjudication order as the date of its communication and dismissed the appeal solely on the ground of delay (**"the Impugned Order"**), without entering into the merits of the controversy.

Aggrieved by the Impugned Order, the Petitioner filed a writ petition before the Hon'ble Allahabad High Court contending that the action of the Appellate Authority was contrary to the law laid down by the Division Bench of the Court in ***Bombino Agro Industries Limited v. State***

of U.P. [(2026) 38 Centax 81 (All.)], which was subsequently followed in a bunch of writ petitions, the leading of which being ***Manoj Kumar, Proprietor of M/s Sai Traders v. State of Uttar Pradesh [Writ Tax No. 2173 of 2026 dated May 19, 2026]***. The Learned Standing Counsel appearing for the Revenue did not dispute the aforesaid legal position.

Issue:

Whether the limitation for filing an appeal under Section 107 of the CGST Act commences from the date of passing of the adjudication order or from the date of its actual communication, when the Assessee has specifically declared the date of communication and the Revenue has failed to rebut the same through cogent material?

Held:

The Hon'ble Allahabad High Court in ***Writ Tax No. 2765 of 2026*** held as under:

- Observed that, the issue involved in the writ petition stands squarely covered by the law laid down by the Division Bench in *Bombino Agro Industries Limited (supra)* as well as in *Manoj Kumar, Proprietor of M/s Sai Traders (supra)*, wherein it was held that once the date of communication as mentioned by the respective dealers is treated as the actual date of communication, the onus shifts on the Revenue to rebut the same by cogent materials, and in the absence thereof, the date of communication as declared by the dealer shall be treated as the date of actual communication and the limitation shall arise from such date.

- Noted that, the record showed that the date of communication of the order passed by the Proper Officer was November 09, 2025, which was not rebutted by the Revenue through any cogent material, and therefore, the matter requires reconsideration.

- Held that, the Impugned Order dismissing the appeal as time-barred, without examining the issue of actual communication, cannot be sustained in the eyes of law and is hereby quashed. Accordingly, the writ petition was allowed.

- Directed that, the matter be remitted to the Appellate Authority concerned to pass a fresh order, strictly in accordance with law, after affording due opportunity of hearing to the parties and after considering the principles laid down in *Bombino Agro Industries Limited (supra)* and *Manoj Kumar, Proprietor of M/s Sai Traders (supra)*, expeditiously, preferably within a period of two months from the date of production of a certified copy of the order.

Our Comments:

Section 107(1) of the CGST Act provides that any person aggrieved by any decision or order passed under the CGST Act may file an appeal before the Appellate Authority within three months from the date on which the said decision or order is *"communicated"* to such person. Further, Section 107(4) of the CGST Act empowers the Appellate Authority to condone a delay of a further period of one month, on sufficient cause being shown. It is significant to note that the Legislature has consciously used the expression "communicated" and not "passed" or "issued", thereby making it clear that the limitation is triggered only upon effective communication of the order to the aggrieved person, and not merely upon its passing.

This position is further fortified by Section 169 of the CGST Act, which prescribes the modes of service of any decision, order, summons, notice, or other communication, and provides that service shall be deemed complete only when effected in the prescribed manner. Thus, where the Revenue asserts that the limitation has expired, the burden lies on it to establish, through cogent material such as proof of service or delivery, the actual date on which the order was communicated to the Assessee.

The present ruling follows the Division Bench decision of the Hon'ble Allahabad High Court in ***Bombino Agro Industries Limited v. State of U.P. [(2026) 38 Centax 81 (All.)]*, as reiterated in *Manoj Kumar, Proprietor of M/s Sai Traders v. State of Uttar Pradesh [Writ Tax No. 2173 of 2026 dated May 19, 2026]*,** wherein it was categorically held that once the Assessee discloses the actual date of communication of an order, the burden shifts on the Revenue to rebut the same by cogent materials, failing which the date declared by the dealer must be accepted as the date of actual communication for the purpose of computing limitation.

A pari materia principle was laid down by the Hon'ble Supreme Court under the erstwhile **Central Excise regime in *Collector of Central Excise, Madras v. M/s M.M. Rubber Co. [1992 (59) ELT 163 (SC)]*,** wherein it was held that so far as the party aggrieved is concerned, the period of limitation for exercising a right of appeal or revision runs from the date of communication or knowledge of the order, since an order cannot prejudicially affect a person until it is made known to him. Similarly, in ***Ola Fleet Technologies Pvt. Ltd. v. State of U.P. [Writ Tax No. 855 of 2024]*,** the Hon'ble Allahabad High Court extended the benefit of doubt to the Assessee where the order was not reflected under the appropriate tab on the GST common portal, holding that the Assessee could not be penalised for the lapse in effective communication.

The present judgment reinforces a salutary principle that access to the appellate remedy, being a valuable statutory right, cannot be foreclosed on a technical computation of limitation from the date of passing of the order, where the actual communication thereof is disputed and remains unrebutted. Taxpayers would, however, be well advised to diligently monitor the GST common portal and preserve contemporaneous evidence of the date on which any order first came to their knowledge, while the Department must ensure service of orders strictly in accordance with Section 169 of the CGST Act and maintain verifiable proof thereof.

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