[2026:RJ-JP:30976-DB]

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Civil Writ Petition No. 13403/2026
CNR: RJHC010610012026
URN: CW / 24378U / 2026

M/s. Kakar Automobiles, Gouri Workshop Mechanic, Khasra No. 1037. Near Railway Fatak, Nagaur Road,didwana, Nagaur, Rajasthan, 341303 Through Its Proprietor Shri Riyaz Mohd Khan, Son Of Shri Gulam Rasul Khan, Aged 63, Years Resident Of Parbatpura Bypass, Ajmer, Rajasthan 305001

----Petitioner

Versus

1. Union Of India, Ministry Of Finance No 137, North Block New Delhi 110001
2. The Chief Commissioner, State Goods And Services Tax Department Kar Bhawan Ambedkar Circle Jaipur
3. The Appellate Authority, State Tax Ajmer Rajasthan
4. The Additional And Joint Commissioner, State Tax Circle Nagaur Ajmer Rajasthan
5. The State Of Rajasthan, Through Principal Secretary, Ministry Of Finance, Secretariat, Jaipur

----Respondents

For Petitioner(s)	:	Mr. Yashasvi Sharma, through V.C. Mr. Siddharth Tatia Mr. Manan Mehta
For Respondent(s)	:	Mr. Mahaveer Bishnoi, AAG with Mr. Harshwardhan Singh Mr. Shyam Paliwal, Dy. S.G.

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Order

13/07/2026

1. The present D.B Civil Writ Petition has been preferred by the petitioner, inter alia, claiming the following reliefs:

> "(i) By a suitable writ, order or direction, the impugned order dated 01.04.2026 (Annexure-8) passed by the respondent No. 4

may kindly be quashed and set aside being violative of Article 14, 19(1)(g) and 301 of the Constitution of India.

(ii) By a suitable writ, order or direction, the impugned order dated 18.07.2024 (Annexure - 6) passed by the respondent No. 5 may also kindly be quashed and set aside being violative of Articles 14, 19(1)(g) and 301 of the Constitution of India.

(iii) By a suitable writ, order or direction, the delay in filing the appeal before the respondent no. 4 may kindly be condoned in exercise of the extra ordinary jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India.

(iv) Any other suitable writ, order or direction that may be deemed expedient under the facts and circumstances of the case may kindly be issued / passed."

2. Learned counsel for both the parties submit that the controversy involved in the present appeal is no more res-integra, as it is decided by this Court in ***M/s S. Nabad Ali Mustak Ahmed vs. Union of India*** (D.B. Civil Writ Petition No.5777/2025) on 04.11.2025; operative portion of the same is reproduced as under:-

"6. Heard learned counsel for the petitioner as well as learned Additional Advocate General appearing for the respondents and perused the material available on record.

7. This Court observes that, in view of paragraph 2 above, the scope of the present writ petition stands confined to the challenge to the show cause notice dated 18.10.2023, the cancellation order dated 06.12.2023, the appellate order dated 18.12.2024 and the consequential prayer for restoration of the petitioner's GST registration and/or consideration of his statutory appeal on merits. The challenge to the vires of Section 107(1) and 107(4) of the CGST/RGST Acts does not survive for adjudication.

8. This Court observes that the cancellation of GST registration entails serious civil consequences, inasmuch as it disables a registered person from carrying on taxable business in the ordinary course and, in practical terms, affects the right to livelihood of the assessee and those dependent on such business activity. In such circumstances, the approach of the authorities, particularly while dealing with appeals against cancellation orders, is expected to be fair, reasonable and not unduly technical.

8.1. At this stage, reference may be made to the judgment of this Court in, ***Pooja Construction Company v. Union of India & Ors.,*** **(*D.B. Civil Writ Petition No. 13263/2025* decided on 08.10.2025)**, wherein the Court, in identical circumstances involving dismissal of appeal solely on the ground of limitation, held as under:

"7. It is a matter of record that GST registration of the petitioner has been cancelled with effect from 14.03.2024 which is virtually a civil death thereby bringing the business operations of the petitioner at a stand still. As per the petitioner, its accountant, who was entrusted with the responsibility to file the returns and to ensure all the legal and statutory compliances, has failed to perform his duty and on account of failure to file returns continuously for 6 months, the GST registration of the petitioner was cancelled. The reasons mentioned in the petition for non-compliance of

the relevant provisions of the Act within the prescribed time, in the considered opinion of this Court, appears to be genuine.

8. This Court in the above relied upon judgments while allowing the writ petitions, have issued directions to entertain the appeal on merits.

9. For the foregoing reasons and taking benefits of the order passed by the Coordinate Bench of this Court, we allow the present writ petition and accordingly, set aside the order dated 26.05.2025 (Annex.5) passed by the appellate authority. The appellate authority is directed to consider and decide the appeal of the petitioner on its own merits, in accordance with law, subject to the petitioner firm depositing late fees, penalty and other statutory deposits for entertaining the appeal, as admissible."

8.2. The ratio of the aforesaid judgment squarely applies to the facts of the present case, where cancellation has resulted in cessation of business activity and the statutory appeal has been rejected solely on limitation without consideration of the explanation tendered by the petitioner.

9. This Court observes that the Appellate Authority, while dismissing the petitioner's appeal as time-barred, has proceeded solely on computation of limitation under Section 107(1) and 107(4) of the CGST/RGST Acts and has not adverted to, much less dealt with, the petitioner's explanation for delay, the nature of the ailment pleaded, or the grave consequences of non-condonation in the facts of the case. The impugned appellate order is, thus, ex facie cryptic and non-speaking on these material aspects.

10. This Court finds that, although the Appellate Authority is bound by the outer limit prescribed in Section 107(4) and cannot, in exercise of its own powers, condone delay beyond the statutory cap, the constitutional jurisdiction of this Court under Articles 226 and 227 is of a different and higher character. In an appropriate case, where the explanation for delay is plausible and the consequences of non-condonation are disproportionate and harsh, this Court is not precluded from issuing directions so as to ensure that the matter is considered on merits, notwithstanding the statutory bar, particularly when grave prejudice to livelihood and business is demonstrated.

11. This Court observes that the petitioner has, on oath, asserted that he came to know of the cancellation of registration only upon contacting his tax consultant after recovery from illness and that the appeal was then filed without further delay on 24.09.2024. It is also not in dispute that the delay is of a finite and determinable period and that the petitioner is otherwise willing to comply with all statutory obligations, including filing of pending returns and payment of dues, if any, determined in accordance with law.

12. This Court finds that, in the facts peculiar to the present case, the delay in filing the appeal stands sufficiently explained on a prima facie basis by reference to the petitioner's medical condition and subsequent steps taken upon acquiring knowledge of cancellation. The respondents have not pointed out any serious prejudice to revenue that would ensue merely by permitting the appeal to be heard on merits. On the contrary, continuation of business and restoration of registration, subject to final outcome, would facilitate future tax compliance and collection.

13. This Court observes that both sides have raised rival contentions on the legality of the Show Cause Notice dated

18.10.2023, the alleged non-compliance with Section 169 as regards service, the validity of retrospective cancellation from 01.09.2023, and the alleged violation of Section 75(4) and principles of natural justice. These are issues which are integrally connected with the merits of the cancellation proceedings and are best examined by the statutory Appellate Authority in the first instance, upon a full and fair hearing to both parties.

14. This Court finds that it would neither be appropriate nor necessary, in the exercise of writ jurisdiction, to conclusively adjudicate upon the merits of the cancellation and the show cause notice at this stage, when the statutory appeal has been rejected solely on limitation and has not yet been considered on merits. Interference in writ jurisdiction is, therefore, warranted primarily to the extent of correcting the denial of an effective appellate remedy, rather than substituting this Court’s view on factual and legal issues that lie within the province of the Appellate Authority.

15. This Court observes that, in similar matters concerning cancellation of GST registrations, this Court and other High Courts have, in the interest of justice and to avoid civil death of genuine businesses, directed consideration of delayed appeals on merits by excluding the bar of limitation, where the explanation for delay and the hardship occasioned thereby justified such an equitable course. The facts of the present case, involving medical incapacity pleaded by the proprietor of a running firm, justify adoption of a similar remedial approach.

16. This Court finds, therefore, that the refusal of the Appellate Authority to entertain the petitioner’s appeal solely on the ground of limitation, without examining the explanation for delay and without affording the petitioner an opportunity of contesting the merits of cancellation, has resulted in denial of a substantive statutory remedy and, in turn, threatens to irreversibly affect the petitioner’s right to carry on business and livelihood. In the totality of circumstances, this Court is persuaded to exercise its writ jurisdiction to reopen the appellate remedy.

17. This Court observes that the ends of justice would be adequately met if the appellate order dated 18.12.2024 is set aside and the appeal filed by the petitioner is restored to the file of the Appellate Authority, with a specific direction that the appeal shall be heard and decided on merits, without being dismissed on the ground of limitation and without being influenced by the earlier order of dismissal. All contentions of both parties on the merits of the Show Cause Notice, the cancellation order and the issue of service, including reliance on case-law, shall remain open for consideration by the Appellate Authority.

18. This Court finds it appropriate to clarify that this Court has not expressed any concluded opinion on the legality or correctness of the Show Cause Notice dated 18.10.2023 or the cancellation order dated 06.12.2023. Any observations herein are only for the limited purpose of examining the justification for reopening the appellate remedy and shall not prejudice the adjudication by the Appellate Authority, which shall decide the matter independently in accordance with law.

19. This Court observes that the Appellate Authority shall afford reasonable opportunity of hearing to both sides, permit the petitioner to place all relevant documents and submissions, and thereafter pass a reasoned order dealing with the rival contentions, preferably within a stipulated period to avoid further uncertainty for either party.

20. In view of the aforesaid discussion and for the reasons recorded hereinabove, this Court deems it appropriate to exercise its writ jurisdiction to reopen the petitioner's statutory appellate remedy. Accordingly, the order dated 18.12.2024 passed by the Appellate Authority (Respondent No. 5) in Form GST APL-04 is hereby quashed and set aside.

21. The appeal filed by the petitioner on 24.09.2024 under Section 107 of the RGST/CGST Acts shall stand restored to the file of the Appellate Authority, to be heard and decided on merits, without being dismissed on the ground of limitation and without being influenced by the earlier order of dismissal.

22. The Appellate Authority shall afford due opportunity of hearing to both parties, permit filing of all relevant documents/material, and shall pass a reasoned and speaking order dealing with all contentions relating to the Show Cause Notice dated 18.10.2023, cancellation order dated 06.12.2023, and all ancillary issues.

23. The writ petition is **disposed of** in the above terms."

3. In light of the aforequoted order, the present writ petition is also **disposed of** in the same terms as in ***M/s S. Nabad Ali Mustak Ahmed (supra)***.

4. Pending application(s), if any, shall stand disposed of.

(PRAVEER BHATNAGAR),J (PUSHPENDRA SINGH BHATI),J

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