Reserved

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA
AND
HON'BLE SRI JUSTICE SUBHASH UPADHYAY

WRIT PETITION (M/B) NO. 317 OF 2025

M/s Radhika Furniture @Radha Devi .....Petitioner.

Versus

The Commissioner, State Goods and Services Tax & others

....Respondents.

With

Writ Petition (M/S) No.716 of 2024
Writ Petition (M/B) No.36 of 2025
Writ Petition (M/B) No.53 of 2025
Writ Petition (M/B) No.54 of 2025
Writ Petition (M/B) No.61 of 2025
Writ Petition (M/B) No.62 of 2025
Writ Petition (M/S) No.86 of 2025
Writ Petition (M/B) No.92 of 2025
Writ Petition (M/B) No.94 of 2025
Writ Petition (M/B) No.119 of 2025
Writ Petition (M/B) No.122 of 2025
Writ Petition (M/B) No.175 of 2025
Writ Petition (M/B) No.262 of 2025
Writ Petition (M/B) No.325 of 2025
Writ Petition (M/B) No.338 of 2025
Writ Petition (M/B) No.339 of 2025
Writ Petition (M/B) No.348 of 2025
Writ Petition (M/B) No.349 of 2025
Writ Petition (M/B) No.360 of 2025

Writ Petition (M/B) No.363 of 2025

Writ Petition (M/B) No.384 of 2025

Writ Petition (M/B) No.396 of 2025

Writ Petition (M/B) No.403 of 2025

Writ Petition (M/B) No.414 of 2025

Writ Petition (M/B) No.465 of 2025

Writ Petition (M/B) No.466 of 2025

Writ Petition (M/B) No.468 of 2025

Writ Petition (M/B) No.485 of 2025

Writ Petition (M/B) No.488 of 2025

Writ Petition (M/B) No.491 of 2025

Writ Petition (M/B) No.535 of 2025

Writ Petition (M/B) No.537 of 2025

Writ Petition (M/B) No.538 of 2025

Writ Petition (M/B) No.539 of 2025

Writ Petition (M/B) No.553 of 2025

Writ Petition (M/B) No.596 of 2025

Writ Petition (M/B) No.619 of 2025

Writ Petition (M/B) No.659 of 2025

Writ Petition (M/B) No.743 of 2025

Writ Petition (M/B) No.763 of 2025

Writ Petition (M/B) No.804 of 2025

Writ Petition (M/B) No.858 of 2025

Writ Petition (M/B) No.874 of 2025

Writ Petition (M/B) No.882 of 2025

Writ Petition (M/B) No.889 of 2025

Writ Petition (M/B) No.908 of 2025

Writ Petition (M/B) No.913 of 2025

Writ Petition (M/B) No.924 of 2025

Writ Petition (M/B) No.959 of 2025

Writ Petition (M/B) No.1033 of 2025

Writ Petition (M/B) No.1034 of 2025

Writ Petition (M/B) No.1081 of 2025

Writ Petition (M/B) No.82 of 2026

Writ Petition (M/B) No.113 of 2026

Writ Petition (M/B) No.122 of 2026

Writ Petition (M/B) No.123 of 2026

Writ Petition (M/B) No.161 of 2026

Counsel for the Petitioners	:	Ms. Seema Dhingra Bakshi, Mr. Pradeep Singh Rawat, Mr. Mahendra Singh Rawat, Mr. Lalit Mohan Pant, Mr. Rohit Arora, Mr. Shubhang Dobhal, Mr. Suryakant Maithani, Mr. Tarun Pande, Mr. S.K. Posti, learned Senior Counsel assisted by Mr. Ashutosh Posti, Mr. Eshan Sachdeva, Mr. Mukesh Kumar Kapruwan, Mr. Hemant Singh and Mr. Pooran Lal, Mr. Kishore Rai, Mr. Rituperna Joshi, Mr. Yogesh Pacholia, Mr. Ms. Sukhwani Singh, Mr. Arvind Kumar Sharma, Mr. Hemant Singh Mahra, Mr. Ketan Joshi, Mr. Aditya Singh, Ms. Prabha Naithani, Mr. Sagar Kothari, Mr. C.K. Sharma, Mr. Tejas Agarrwal, Mr. Pavan Kumar Nath and Mr. Pankaj Tiwari, learned counsels.
Counsel for the State	:	Ms. Puja Banga, learned Standing Counsel.
Counsel for the CGST Department	:	Mr. Shobhit Saharia, learned counsel.

Order Reserved on:25.03.2026

Order Delivered on:17.07.2026

A.F.R. (Approved for Reporting)

The Court made the following:

ORDER: **(per Hon'ble The Chief Justice Mr. Manoj Kumar Gupta)**

1. In the present batch of writ petitions, a common question of law arises as to whether an appeal under Section 107 of the Central/ State Goods and Services Tax Act, 2017

(for short "the CGST/ SGST Act") can be entertained beyond the prescribed period of three months and the further condonable period of one month by invoking Section 5 of the Limitation Act, 1963 *(hereinafter referred to as "the Limitation Act")*.

2. As the factual matrix of each case is different and the controversy centres around the aforesaid pure question of law, namely, whether the writ Court, in exercise of its power under Article 226 of the Constitution of India, may examine the challenge notwithstanding the dismissal of appeal as barred by limitation, we have, with consent of counsel for the parties, proceeded to hear and decide the said question at the threshold before examining the facts of the individual cases.

3. Section 107 of the Act, which provides for the statutory remedy of appeal before the Appellate Authority, reads as follows:-

"Section 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 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.

(5) Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.

(6) No appeal shall be filed under sub-section (1), unless the appellant has paid-

> *(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and*
>
> *(b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, 1[subject to a maximum of 3[twenty] crore rupees], in relation to which the appeal has been filed.*

*[**Provided** that in case of any order demanding penalty without involving demand of any tax, no appeal shall be filed against such order unless a sum equal to ten per cent. of the said penalty has been paid by the appellant.]*

(7) Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.

(8) The Appellate Authority shall give an opportunity to the appellant of being heard.

(9) The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

***Provided** that no such adjournment shall be granted more than three times to a party during hearing of the appeal.*

(10) The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:

***Provided** that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:*

***Provided** further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74 4[or section 74A].*

(12) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision.

(13) The Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:

***Provided** that where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.*

(14) On disposal of the appeal, the Appellate Authority shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.

(15) A copy of the order passed by the Appellate Authority shall also be sent to the jurisdictional Commissioner or the authority designated by him in this behalf and the jurisdictional Commissioner of State tax or Commissioner of Union Territory Tax or an authority designated by him in this behalf.

(16) Every order passed under this section shall, subject to the provisions of section 108 or section 113 or section 117 or section 118 be final and binding on the parties."

4. The principle submission advanced on behalf of the Revenue is that the CGST/ SGST Acts are special statutes which prescribe not only a specific period of limitation for preferring an appeal but also a maximum period upto which delay may be condoned upon sufficient cause being shown.

Consequently, by virtue of Section 29(2) of the Limitation Act, the applicability of Section 5 of the Limitation Act stands impliedly excluded.

5. Section 29(2) of the Limitation Act reads as under:-

> ***"29. Savings:-***
> *(1).....*
> *(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law."*

6. The Division Bench of the Allahabad High Court in ***"Atlantis Intelligence Ltd. vs. Union of India & others"***, *neutral citation No. 2025:AHC:135383-DB*, after considering the scheme of Section 107 of the CGST Act and Section 29(2) of the Limitation Act, held that the legislative scheme underlying Section 107 manifests an implied exclusion of Section 5 of the Limitation Act beyond the period expressly provided under Section 107(4) of the Act. The relevant observations are extracted below:-

> *"3. Upon perusal of the record, it is clear that the impugned order was passed on January 31, 2025, while the writ petition was filed on July 3, 2025. It is to be noted that Section 107 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'Act'), provides for a statutory appeal against the order passed under Section 74 of the Act. The period prescribed therein is three months. <u>By way of sub-section (4) to Section 107 of the Act, if sufficient cause is shown, the period may be extended for a month. As the Act provides for a specific period for filing of appeal and also provides for an extended period, if sufficient cause is shown for condoning the delay in filing of the appeal, Section 29(2) of the Limitation</u>*

<u>Act, 1963 would be applicable</u>. Section 29(2) of the Limitation Act reads as under:

"29. Savings.—

(1) .....

(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law. (3) Save as otherwise provided in any law for the time being in force with respect to marriage and divorce, nothing in this Act shall apply to any suit or other proceeding under any such law. (4) Sections 25 and 26 and the definition of "easement" in section 2 shall not apply to cases arising in the territories to which the Indian Easements Act, 1882 (5 of 1882), may for the time being extend."

<u>Ergo, Section 29(2) clearly excludes the application of Section 5 of the Limitation Act for the purpose of condonation of delay in special statutes.</u>"

(emphasis supplied)

7. A similar view was taken by the Allahabad High Court in ***"Garg Enterprises vs. State of U.P. & others"***, reported in **2024 SCC OnLine All 2583**, wherein it has been observed as follows:-

"7. <u>The Central Goods and Services Act is a special statute and a self-contained code by itself</u>. Section 107 of the Act has an inbuilt mechanism and has impliedly excluded the application of the Limitation Act. It is trite law that Section 5 of the Limitation Act, 1963 will apply only if it is extended to the special statute. <u>Section 107 of the Act specifically provides for the limitation and in the absence of any clause condoning the delay by showing sufficient cause after the prescribed period, there is complete exclusion of Section 5 of the Limitation Act. Accordingly, one cannot apply Section 5 of the Limitation Act, 1963 to the aforesaid provision.</u>"

(emphasis supplied)

8. The Delhi High Court has taken same view in ***"M/s Addichem Speciality LLP vs. Special Commissioner- I, Department of Trade & Taxes and another"***, W.P.(C)

14279/2024, decided on 07.02.2025. After considering a catena of judgments of the Supreme Court, the Court held that where the Legislation has prescribed a specific period for filing appeal and also an extended period for condoning the delay, the provisions of Section 5 of the Limitation Act stands excluded. The relevant observations are extracted below:-

> *"65. Section 107(4) firstly prescribes a general time frame within which an appeal may be preferred. Once that period has elapsed, it stipulates that the appeal may be instituted within a further period of one month. The provision thus prescribes an additional period of one month within which an appeal may be instituted. That section however stops at that and does not allude to aspects such as sufficient cause or other similar factors which may have prevailed and led to the appeal not being lodged within the time prescribed. The provision thus clearly excludes the general principles which the law recognises as relevant for the purposes of condonation of delay. It is this facet of Section 107(4) which appears to have weighed upon various High Courts to hold that the said provision excludes the principles underlying Section 5 and other provisions concerned with condonation contained in the Limitation Act. It is this facet which triggers Section 29 of the Limitation Act and results in the exclusion of the other provisions governing condonation contained in that statute.*
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> *69. In summary, the power to condone delay caused in pursuing a statutory remedy would always be dependent upon the statutory provision that governs. The right to seek condonation of delay and invoke the discretionary power inhering in an appellate authority would depend upon whether the statute creates a special and independent regime with respect to limitation or leaves an avenue open for the appellant to invoke the general provisions of the Limitation Act to seek condonation of delay. The facility to seek condonation can be resorted provided the legislation does not construct an independent regime with respect to an appeal being preferred. Once it is found that the legislation incorporates a provision which creates a special period of limitation and proscribes the same being entertained after a terminal date, the general provisions of the Limitation Act would cease to apply.*
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> *70. In view of the forgoing discussion, as it is evident that each of the appeals was filed beyond the prescribed period of limitation provided by Sections 107 (1) and 107 (4) of the CGST Act, the aforesaid writ petitions lack merit and are accordingly dismissed."*
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> *(emphasis supplied)*

9. A similar view has been taken by the Chhattisgarh High Court in ***"Nandan Steels & Power Ltd. vs. State of Chhattisgarh"***, reported in **2022 SCC OnLine Chh 1428**, wherein it was observed that while the Legislature has consciously conferred a limited power to condone delay, it did not intend the provisions of Section 5 of the Limitation Act to apply to proceedings under the CGST Act. The Court further held that the absence of expression *"but not thereafter"* in Section 107(4) does not dilute its mandatory nature.

10. The aforesaid decisions have substantially relied upon the judgment of the Supreme Court in "***Singh Enterprises vs. Commissioner of Central Excise, Jamshedpur & others",*** reported in ***(2008) 3 SCC 70***, wherein Section 35 of the Central Excise Act, 1944, providing for appeal to the Commissioner (Appeals) against any decision or order passed under the Act by the Central Excise Officer, fell for consideration. The said provision provided for a specific period of limitation for filing appeal, which was 60 days from the date of communication of the decision or order to the person aggrieved, and an extended period of limitation of 30 days, upon sufficient cause being shown. Interpreting the provision, the Supreme Court held that once the Legislature had provided a specific period of limitation for preferring appeal and also a time-frame to the extent of which delay could be condoned, the appellate authority, being

a creature of statute, has no jurisdiction to condone delay beyond the period expressly permitted by the statute.

11. The Supreme Court further rejected the contention that the constitutional jurisdiction of the High Court or the plenary power of the Supreme Court could be invoked to condone the delay on sufficient cause being shown, as it would defeat the legislative intent and render the limitation provision nugatory. The declaration of law on the said point in Paragraph Nos.8 to 10 is as follows:-

> *"8. The Commissioner of Central Excise (Appeals) as also the Tribunal being creatures of Statute are vested with jurisdiction to condone the delay beyond the permissible period provided under the Statute. The period upto which the prayer for condonation can be accepted is statutorily provided. It was submitted that the logic of Section 5 of the Indian Limitation Act, 1963 (in short "the Limitation Act") can be availed for condonation of delay. The first proviso to Section 35 makes the position clear that the appeal has to be preferred within three months from the date of communication to him of the decision or order. However, if the Commissioner is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. In other words, this clearly shows that the appeal has to be filed within 60 days but in terms of the proviso further 30 days time can be granted by the appellate authority to entertain the appeal. The proviso to sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The language used makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning delay only upto 30 days after the expiry of 60 days which is the normal period for preferring appeal. Therefore, there is complete exclusion of Section 5 of the Limitation Act. The Commissioner and the High Court were therefore justified in holding that there was no power to condone the delay after the expiry of 30 days period.*
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> *9. Learned counsel for the appellant has emphasized on certain decisions, more particularly, I.T.C. case (supra) to contend that the High Court and this Court in appropriate cases condoned the delay on sufficient cause being shown.*
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> *10. Sufficient cause is an expression which is found in various statutes. It essentially means as adequate or enough. There cannot be any straitjacket formula for accepting or rejecting the explanation furnished for delay caused in taking steps. In the instant case, the explanation offered for the abnormal delay of nearly 20 months is that the appellant concern was practically closed after 1998 and it was only opened for some short period. From the application for condonation of delay, it appears that the appellant has categorically accepted that on receipt of order the same was immediately handed over to the consultant for filing an appeal. If that is so, the plea that because of lack of experience in business there was delay does not stand to be reason. I.T.C. case (supra) was rendered taking note of the peculiar background facts of the case. In that case there was no law declared by this Court that even though the Statute prescribed a particular period of limitation, this Court can direct condonation. That would render a specific provision providing for limitation rather otiose. In any event, the causes shown for condonation have no acceptable value. In that view of the*

matter, the appeal deserves to be dismissed which we direct. There will be no order as to costs."

12. The same principle was reiterated by the Supreme Court in ***"Commissioner of Customs and Central Excise vs. Hongo India Pvt. Ltd."***, reported in ***(2009) 5 SCC 791***, while considering the applicability of Section 5 of the Limitation Act to proceedings under Section 35-H of the Excise Act. The Supreme Court examined the scheme of the Central Excise Act and reiterated that the applicability of Section 5 of the Limitation Act is to be gathered from the legislative scheme of the special enactment and that an express exclusion is not necessary, where a special statute prescribes a complete code governing limitation and circumscribes the extent to which delay can be condoned.

13. It is noteworthy that Section 35-H of the Excise Act, which was interpreted, only provides for a particular period of limitation, i.e. 180 days and there is no other clause for condoning the delay, nor any specific provision excluding the applicability of Section 5 of the Limitation Act. It is as follows:-

> *"35-H. Application to High Court:- (1) The Commissioner of Central Excise or the other party may, within one hundred and eighty days of the date upon which he is served with notice of an order under Section 35-C passed before the 1st day of July, 2003 (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment), by application in the prescribed form, accompanied, where the application is made by the other party, by a fee of two hundred rupees, apply to the High Court to direct the Appellate Tribunal to refer to the High Court any question of law arising from such order of the Tribunal."*

14. One of the contentions advanced on behalf of the aggrieved person was that in absence of any express provision excluding the applicability of Section 5 of the Limitation Act, the provisions of Section 5 of the Limitation Act would apply and the High Court had the power to entertain the reference even after 180 days. The contention regarding necessity of express exclusion of the provisions of the Limitation Act in the special statute was repelled observing that the same is not necessary. It was held that such exclusion may equally arise by necessary implication from the scheme of the special enactment, the nature of remedy provided, the limitation prescribed and the extent to which the Legislation has chosen to confer the power of condonation. The relevant observations are as follows:-

"15. We have already pointed out that in the case of appeal to the Commissioner, Section 35 provides 60 days time and in addition to the same, Commissioner has power to condone the delay up to 30 days, if sufficient cause is shown. Likewise, Section 35B provides 90 days' time for filing appeal to the Appellate Tribunal and sub-section (5) therein enables the Appellate Tribunal to condone the delay irrespective of the number of days, if sufficient cause is shown. Likewise, Section 35EE which provides 90 days time for filing revision by the Central Government and, proviso to the same enables the revisional authority to condone the delay for a further period of 90 days, if sufficient cause is shown, whereas in the case of appeal to the High Court under Section 35-G and reference to the High Court under Section 35-H of the Act, total period of 180 days has been provided for availing the remedy of appeal and the reference. However, there is no further clause empowering the High Court to condone the delay after the period of 180 days.

18. The learned Additional Solicitor General relying on the judgment of this Court in Union of India vs. M/s Popular Construction Co., (2001) 8 SCC 470 contended that in the absence of specific exclusion of the Limitation Act in the Central Excise Act, in lieu of Section 29(2) of the

Limitation Act, Section 5 of the same is applicable even in the case of reference application to the High Court.

32. As pointed out earlier, the language used in Sections 35, 35B, 35EE, 35G and 35H makes the position clear that an appeal and reference to the High Court should be made within 180 days only from the date of communication of the decision or order. In other words, the language used in other provisions makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning the delay only up to 30 days after expiry of 60 days which is the preliminary limitation period for preferring an appeal. In the absence of any clause condoning the delay by showing sufficient cause after the prescribed period, there is complete exclusion of Section 5 of the Limitation Act. The High Court was, therefore, justified in holding that there was no power to condone the delay after expiry of the prescribed period of 180 days.

33. Even otherwise, for filing an appeal to the Commissioner, and to the Appellate Tribunal as well as revision to the Central Government, the legislature has provided 60 days and 90 days respectively, on the other hand, for filing an appeal and reference to the High Court larger period of 180 days has been provided with to enable the Commissioner and the other party to avail the same. We are of the view that the legislature provided sufficient time, namely, 180 days for filing reference to the High Court which is more than the period prescribed for an appeal and revision.

34. Though, an argument was raised based on Section 29 of the Limitation Act, even assuming that Section 29(2) would be attracted what we have to determine is whether the provisions of this section are expressly excluded in the case of reference to High Court.

35. It was contended before us that the words "expressly excluded" would mean that there must be an express reference made in the special or local law to the specific provisions of the Limitation Act of which the operation is to be excluded. In this regard, we have to see the scheme of the special law here in this case is Central Excise Act. The nature of the remedy provided therein are such that the legislature intended it to be a complete Code by itself which alone should govern the several matters provided by it. If, on an examination of the relevant provisions, it is clear that the provisions of the Limitation Act are necessarily excluded, then the benefits conferred therein cannot be called in aid to supplement the provisions of the Act. In our considered view, that even in a case where the special law does not exclude the provisions of Sections 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the court to examine whether and to what extent, the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation. In other words, the applicability of the provisions of the Limitation Act, therefore, to be judged not from the terms of the Limitation Act but by the provisions of the Central Excise Act relating to filing of reference application to the High Court.

36. The scheme of the Central Excise Act, 1944 support the conclusion that the time limit prescribed under Section 35H(1) to make a *reference to High Court is absolute and unextendable by court under Section 5 of the Limitation Act. It is well settled law that it is the duty of the court to respect the legislative intent and by giving liberal interpretation, limitation cannot be extended by invoking the provisions of Section 5 of the Act.*

37. In the light of the above discussion, we hold that the High Court has no power to condone the delay in filing the "reference application" filed by the Commissioner under unamended Section 35H(1) of the Central Excise Act, 1944 beyond the prescribed period of 180 days and rightly dismissed the reference on the ground of limitation."

(emphasis supplied)

15. The doctrine of implied exclusion without specific reference to any provision of the Limitation Act, relied up by the Supreme Court in ***Hongo India*** (supra), has been consistently followed by the Supreme Court in large number of its other decisions.

16. In ***Patel Brothers vs. State of Assam & others,*** reported in ***(2017) 2 SCC 350***, the Supreme Court considered the question of applicability of Section 5 of the Limitation Act to revision petition filed under Section 81 of the Assam Value Added Tax Act, 2003, which provided a limitation of 60 days from the date of notice of the decision and is silent about the power to condone the delay if revision is filed beyond the prescribed period. However, the Supreme Court took into consideration Section 84 of the said Act which made applicable only the provisions of Sections 4 and 12 of the Limitation Act and held that Section 5 of the Limitation Act would stand excluded by necessary implication. The Supreme Court while repelling the argument based on "no express exclusion" placed reliance on the doctrine of implied

exclusion laid down in its earlier judgment in ***Hukumdev Narain Yadav vs. Lalit Narain,*** reported in ***(1974) 2 SCC 133***. The relevant extract from the judgment is as follows:-

> *"19. The argument predicated on 'no express exclusion' loses its force having regard to the principle of law enshrined in* ***Hukumdev Narain Yadav****. Therein, the Court made following observations while examining whether the Limitation Act would be applicable to the provisions of the Representation of the People Act or not:*
>
> > *"17. ... but what we have to see is whether the scheme of the special law, that is in this case the Act, and the nature of the remedy provided therein are such that the legislature intended it to be a complete code by itself which alone should govern the several matters provided by it. If on an examination of the relevant provisions it is clear that the provisions of the Limitation Act are necessarily excluded, then the benefits conferred therein cannot be called in aid to supplement the provisions of the Act. In our view, even in a case where the special law does not exclude the provisions of Sections 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the Court to examine whether and to what extent the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation."*
>
> *20. <u>Thus, the approach which is to be adopted by the Court in such cases is to examine the provisions of special law to arrive at a conclusion as to whether there was legislative intent to exclude the operation of Limitation Act. In the instant case, we find that Section 84 of the VAT Act made only Sections 4 and 12 of the Limitation Act applicable to the proceedings under the VAT Act.</u> The apparent legislative intent, which can be clearly evinced, is to exclude other provisions, including Section 5 of the Limitation Act. Section 29(2) stipulates that in the absence of any express provision in a special law, provisions of Sections 4 to 24 of the Limitation Act would apply. If the intention of the legislature was to make Section 5, or for that matter, other provisions of the Limitation Act applicable to the proceedings under the VAT Act, there was no necessity to make specific provision like Section 84 thereby making only Sections 4 and 12 of the Limitation Act applicable to such proceedings, inasmuch as these two Sections would also have become applicable by virtue of Section 29(2) of the Limitation Act. <u>It is, thus, clear that the Legislature intended only Sections 4 and 12 of the Limitation Act, out of Sections 4 to 24 of the said Act, applicable under the VAT Act thereby excluding the applicability of the other provisions</u>.*
>
> *21. The judgment in Mangu Ram would not come to the aid of the appellant as the Court found that there was no provision under Cr.P.C. from which legislative intent to exclude Section 5 of the Limitation Act could be discerned and, therefore, Section 29(2) of the Limitation Act was taken aid*

> *of. Similar situation prevailed in Anshuman Shukla's case. On the contrary, in the instant case, a scrutiny of the scheme of VAT Act goes to show that it is a complete code not only laying down the forum but also prescribing the time- limit within which each forum would be competent to entertain the appeal or revision. The underlying object of the Act appears to be not only to shorten the length of the proceedings initiated under the different provisions contained therein, but also to ensure finality of the decision made thereunder. The fact that the period of limitation described therein has been equally made applicable to the assessee as well as the revenue lends ample credence to such a conclusion. We, therefore, unhesitatingly hold that the application of Section 5 of the Limitation Act, 1963 to a proceeding under Section 81(1) of the VAT Act stands excluded by necessary implication, by virtue of the language employed in Section 84."*
>
> *(emphasis supplied)*

17. Before we advert to the precedents cited on behalf of the petitioners, we would like to refer to one more judgment in the case of ***"Union of India vs. Popular Construction Co. Ltd."***, reported in ***(2001) 8 SCC 470*** cited on behalf of the Revenue on the same issue in the context of objection under Section 34 of the Arbitration and Conciliation Act, 1996. Though, it has been held that after the expiry of the limitation prescribed for filing objection under Section 34 of the Act, the same was to be rejected as barred by limitation and benefit of Section 5 of the Limitation Act cannot be extended, the said judgment can well be distinguished on the ground of pre-emptive nature of the language *"and not thereafter"* used in the statute. For the said reason, we do not feel it expedient to deal with it in any further detail.

18. We now proceed to deal with the judgments cited on behalf of the petitioners in support of the contention that

delay is condonable while filing appeal under Section 107(4) of the Act by applying Section 5 of the Limitation Act.

19. A heavy reliance was placed on behalf of the petitioners on the judgment of the Supreme Court in ***"M.P. Steel Corporation vs. Commissioner of Central Excise"***, reported in ***(2015) 7 SCC 58***. The question therein was whether the period spent bonafidely in pursuing remedy before an incompetent forum was liable to be excluded by applying the principles of Section 14 of the Limitation Act while computing limitation for filing appeal under Section 128 of the Customs Act before the Appellate Tribunal.

20. The Supreme Court held that though the Limitation Act, strictly speaking, may not apply *proprio vigore* to proceedings before statutory tribunals, the equitable principle embodied in Section 14, being a principle which advances the cause of justice, would nevertheless apply. These observations (in paragraph No.38) are as follows:-

> *"38. We have already held that the Limitation Act including Section 14 would not apply to appeals filed before a quasi-judicial tribunal such as the Collector (Appeals) mentioned in Section 128 of the Customs Act. However, this does not conclude the issue. There is authority for the proposition that even where Section 14 may not apply, the principles on which Section 14 is based, being principles which advance the cause of justice, would nevertheless apply."*

21. The Supreme Court while accepting the contention that Section 128 of the Customs Act is a complete code by itself, which necessarily excludes the application of Section 14

of the Limitation Act, however, for purposes of extending the benefit of the principles laid down in Section 14 made distinction between **condonation of delay** under Section 5 of the Limitation Act and **exclusion of the time** consumed in prosecuting proceedings bonafidely before a wrong forum. It has thus been held as under:-

> *"42. However, it remains to consider whether Shri Sanghi is right in stating that Section 128 is a complete code by itself which necessarily excludes the application of Section 14 of the Limitation Act. For this proposition he relied strongly on Parson Tools which has been discussed hereinabove. As has already been stated, Parson Tools was a judgment which turned on the three features mentioned in the said case. Unlike the U.P. Sales Tax Act, there is no provision in the Customs Act which enables a party to invoke suo moto the appellate power and grant relief to a person who institutes an appeal out of time in an appropriate case. Also, Section 10 of the U.P. Sales Tax Act dealt with the filing of a revision petition after a first appeal had already been rejected, and not to a case of a first appeal as provided under Section 128 of the Customs Act. Another feature, which is of direct relevance in this case, is that for revision petitions filed under the U.P. Sales Tax Act a sufficiently long period of 18 months had been given beyond which it was the policy of the legislature not to extend limitation any further. This aspect of Parson Tools has been explained in Consolidated Engineering in some detail by both the main judgment as well as the concurring judgment. In the latter judgment, it has been pointed out that there is a vital distinction between extending time and condoning delay. Like Section 34 of the Arbitration Act, Section 128 of the Customs Act is a Section which lays down that delay cannot be condoned beyond a certain period. Like Section 34 of the Arbitration Act, Section 128 of the Customs Act does not lay down a long period. In these circumstances, to infer exclusion of Section 14 or the principles contained in Section 14 would be unduly harsh and would not advance the cause of justice. It must not be forgotten as is pointed out in the concurring judgment in Consolidated Engineering that:*
>
> > *54. "…. Even when there is cause to apply Section 14, the limitation period continues to be three months and not more, but in computing the limitation period of three months for the application under Section 34(1) of the AC Act, the time during which the applicant was prosecuting such application before the wrong court is excluded, provided the proceeding in the wrong court was prosecuted bona fide, with due diligence. Western Builders [(2006) 6 SCC 239] therefore lays down the correct legal position."*

43. Merely because Parson Tools also dealt with a provision in a tax statute does not make the ratio of the said decision apply to a completely differently worded tax statute with a much shorter period of limitation – Section 128 of the Customs Act. Also, the principle of Section 14 would apply not merely in condoning delay within the outer period prescribed for condonation but would apply de hors such period for the reason pointed out in Consolidated Engineering above, being the difference between exclusion of a certain period altogether under Section 14 principles and condoning delay. As has been pointed out in the said judgment, when a certain period is excluded by applying the principles contained in Section 14, there is no delay to be attributed to the appellant and the limitation period provided by the concerned statute continues to be the stated period and not more than the stated period. We conclude, therefore, that the principle of Section 14 which is a principle based on advancing the cause of justice would certainly apply to exclude time taken in prosecuting proceedings which are bona fide and with due diligence pursued, which ultimately end without a decision on the merits of the case."

(emphasis supplied)

22. The Supreme Court has, itself, drawn distinction between condonation of delay and exclusion of time. Thus, the law laid down by the Supreme Court in ***M.P. Steel Corporation*** would not apply for deciding the issue as to whether Section 5 of the Limitation Act would apply to the appeal filed under Section 107(4) of the Act.

23. A similar view was taken by the Supreme Court in the case of ***"J. Kumaradasan Nair vs. Iric Sohan"***, reported in ***(2009) 12 SCC 175*** with regard to the applicability of provisions of Section 14 of the Limitation Act in a revision petition filed before the High Court arising out of orders passed in an execution case arising out of a decree passed in a civil matter. The said judgment, in our considered opinion, which arises out of civil proceedings and is based on construction of Section 14 of the Limitation Act

where the period of limitation is not extended, but only the period consumed in pursuing the remedy before a wrong forum is excluded, would also be of no help to the petitioners.

24. The other judgment, on which also, heavy reliance has been placed on behalf of the petitioners, is in the case of ***"Superintending Engineer/ Dehar Power House Circle Bhakra Beas Management Board (PW) Slapper and another vs. Excise and Taxation Officer, Sunder Nagar/ Assessing Authority"***, reported in ***(2020) 17 SCC 692***. In the said case, question arose before the Supreme Court as to whether Section 5 of the Limitation Act could be applied for condoning the delay in filing revision under Section 48 of the H.P. Value Added Tax Act, 2005, which provided for the limitation of 90 days. The High court took the view that the delay cannot be condoned by applying Section 5 of the Limitation Act. The view taken by the High Court has been held to be unsustainable and the benefit of Section 5 of the Limitation Act was extended to the appellants.

25. A careful reading of the aforesaid judgment reveals that the conclusion reached therein turned entirely upon the scheme of the State Legislation. The Court noticed that the Act contained provisions conferring vide *suo motu* power of revision upon the Commissioner and in such case a much larger period of limitation of five years and, viewed as a

whole, did not manifest any legislative intent to exclude Section 5 of the Limitation Act. The Supreme Court itself distinguished ***Hongo India*** and ***Patel Brothers*** on the ground that those judgments were rendered in the context of materially different statutory schemes. This is evident from the conclusions drawn in the concluding part of the judgment, which are as follows:-

> *"28. In the light of the decisions as mentioned earlier, when we examine the scheme of the Act of 2005, the provisions contained in section 45 provides for an appeal from every original order passed under the Act or the Rules made thereunder. Subsection (4) of section 45 provides appeal to be filed within 60 days, or such more extended period as the appellate authority may allow, for reasons to be recorded in writing. Thus, because of the provisions contained in section 45(4), the principles of section 5 would apply to an appeal before the appellate authority, which otherwise in the absence of specific provision would not have applied to authority. The revision is provided to the Commissioner suo motu under the provisions of section 46(1), and the period provided is 5 years for suo motu exercise of revisional power. However, the tribunal has the power to entertain application within 60 days from the date of communication of the order. When we consider the provisions of section 48, revision is provided to the High Court, and an aggrieved person may within 90 days of the communication of such order, file a revision. Section 48(1) nowhere expressly excludes the applicability of provisions of the Limitation Act. The provisions of section 5 are applicable to Section 48 as they are not expressly excluded by the provisions under the Act of 2005. More so, in view of the provisions in section 45(4), which makes provisions to condone the delay like the Limitation Act, conferring power upon an authority also to condone delay. Further, suo motu revision has also been provided under section 46. In section 48, there is no express exclusion. Because of the scheme of the Act, it cannot be inferred that by implication, the provisions of section 5 of the Limitation Act are excluded. Provisions contained in section 29(2) of the Limitation Act would be attracted as there is no express exclusion or by implication, in view of the provisions of the Act of 2005. We hold that by virtue of the provisions contained in section 29(2), provisions of section 5 of the Limitation Act would apply to proceedings under Section 48 of the 2005 Act.*
>
> *29. <u>The High Court has relied upon the decision of this Court in Patel Brothers (supra) in the context of the Assam VAT Act in which the abovementioned provision of section 84 made the difference, which makes specific provision that only sections 4 and 12 of the Limitation Act are</u>*

<u>applicable. Consequently, it follows that other provisions are not applicable. The decision in Hongo India Private Limited (supra) also turned on the scheme of the Excise Act. The scheme of the Excise Act is materially different than that of the Himachal Pradesh VAT Act. Thus, the decision in Hongo India Private Limited (supra) also cannot be said to be applicable to interpret the Himachal Pradesh VAT Act.</u> As the revision under the Act of 2005 lies to the High Court, the provisions of section 5 of the Limitation Act are applicable, and there is no express exclusion of the provisions of section 5 and as per section 29(2), unless a special law expressly excludes the provision, sections 4 to 24 of the Limitation Act are applicable. When we consider the scheme of the Himachal Pradesh VAT Act, 2005, it is apparent that its scheme is not ousting the provisions of the Limitation Act from its ken which makes principles of section 5 applicable even to an authority in the matter of filing an appeal but for the said provision the authority would not have the power to condone the delay. By implication also, it is apparent that the provisions of Section 5 of the Limitation Act have not been ousted; they have the play for condoning the limitation under Section 48 of the Act of 2005. Suo motu provision of revisional power is also provided to the Commissioner within 5 years. Thus, the intendment is not to exclude the Limitation Act. We condone the delay in filing of revision."

(emphasis supplied)

26. The next judgment relied up on behalf of the petitioners is in ***"ITC Ltd. and another vs. Union of India & others"***, reported in ***(1998) 8 SCC 610***, wherein the High Court had dismissed the writ petition on the ground of availability of remedy of appeal under Section 35 of the Central Excise Act. The Supreme Court, after considering the peculiar facts and circumstances of the case, permitted the appellant to file appeal and observed that if the appeal is filed within one month from the date of order, the same would be heard and decided on merits.

27. In our considered opinion, the said judgment of the Supreme Court, being on peculiar facts and circumstances of the said case, cannot be held to lay down any binding

precedent that appeal filed beyond the prescribed period of limitation are entertainable with the aid of Section 5 of the Limitation Act.

28. Reliance has also been placed on behalf of the petitioners on the judgment of the Patna High Court in ***"M/s Micro Zone vs. Union of India & others"***, reported in ***2024 (4) TMI 756***. In the said case, the appeal filed under a taxing statute, beyond the limitation prescribed, was held to be within time under a special procedure prescribed by the Central Board of Indirect Taxes and Customs by a notification dated 02.11.2023. The said judgment, therefore, also does not advance the case of the petitioners.

29. In another judgment of Orissa High Court in ***"M/s Swati Samantray vs. The Additional Commissioner of State Tax (Appeal), CT and GST, Cuttack and another***, reported in ***2024 (2) TMI 186***, the benefit of same notification was extended in directing the appeal to be decided on merits and, therefore, the same is also not of any relevance.

30. Similarly, the judgments of the Bombay High Court in ***"SPCX Pvt. Ltd. vs. State of Maharashtra (2025) 27 Centax 278 (Bom.); Esquire Electronics vs. State of Maharashtra & others; The Deputy Commissioner of State Tax (Appeals), Mumbai, The Assistant***

Commissioner of State Tax, Mandvi, Mumbai, 2025 (9) TMI 1048", issuing different directions to decide appeals were on peculiar facts without examining any issue of limitation and, therefore, would not be applicable.

31. The principle emerging from the aforesaid authorities is that the applicability of Section 5 of the Limitation Act cannot be determined by adopting any universal formula. The answer necessarily depends upon the language employed by the Legislature, the scheme of the special enactment, the nature of the remedy created and the legislative intent which can be gathered therefrom. The mere absence of an express exclusion is not conclusive, equally, the mere prescription of a period of limitation coupled with a limited power of condonation does not conclude the enquiry. The Court must ascertain whether, upon a holistic reading of the statute, the Legislature intended to exclude the operation of Section 4 to 24 of the Limitation Act.

32. Counsel for the petitioners, however, submitted that the controversy now stands concluded by the recent judgment of the Supreme Court in ***"Deputy Commissioner and Special Land Acquisition Officer vs. S.V. Global Mill Ltd."***, reported in ***2026 SCC OnLine SC 171***. It is a case wherein a two Judge bench of the Supreme Court held that in an appeal to High Court against the judgment and decree of

the Authority under Section 74 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the provision of Section 5 of the Limitation Act would be applicable and, thus, the High Court had the power to condone the delay in filing such an appeal beyond the period prescribed under Section 74 of the said Act.

33. While arriving at the said conclusion, the Supreme Court had examined the object of the Act 2013, the nature of rights created in favour of the land owners in respect of compensation for compulsory acquisition of the land, the character of the proceedings before the Reference Authority, and the appellate jurisdiction exercised by the High Court. The Court also noticed that Section 103 of the 2013 Act expressly provides that the provisions of the Act are in addition to, and not in derogation of, any other law for the time being in force.

34. In order to appreciate the ratio decidendi of the aforesaid judgment, it would be appropriate to examine, in some detail, the provisions of the Act, 2013, which were taken into account by the Supreme Court in coming to the conclusion. The Act, 2013 is a beneficial and welfare oriented enactment intended to ensure that the persons deprived of their property by compulsory acquisition receive fair

compensation together with adequate rehabilitation and resettlement benefits. The provisions of the Act, 2013, therefore, require a liberal and purposive construction so as to advance the legislative object rather than defeat it on technical considerations.

35. The Supreme Court further noticed that proceedings under the 2013 Act are essentially compensatory in nature and that the right of appeal provided under Section 74 constitutes an important safeguard against erroneous determination of compensation. Keeping in view the aforesaid object of the legislation, the Court held that, unless the applicability of Sections 4 to 24 of the Limitation Act is excluded expressly or by necessary implication, Section 29(2) of the Limitation Act would attract the provisions of Section 5, thereby empowering the High Court to condone delay in appropriate case.

36. Another significant consideration which weighed with the Supreme Court was that the 2013 Act does not contain any provision expressly excluding the applicability of Sections 4 to 24 of the Limitation Act. On the contrary, Section 103 expressly provides that the provisions of the Act are in addition to, and not in derogation of, any other law for the time being in force. In such circumstances, the provision of Section 5 of the Limitation Act was held to be applicable.

37. It would be advantageous to reproduce in extenso few paragraphs from the judgment where the said aspects have been dealt with:-

> *"74. We have dealt with the provisions contained in both the enactments in extenso already. We have also dealt with the principles of law. Upon such analysis, we reiterate that the 2013 Act is a unique piece of legislation. The Collector is given two different and distinct roles up to a certain stage of the acquisition process. The first role is to facilitate the acquisition on behalf of the Government, and the other is with respect to the determination of the compensation. For both these roles, there is no question of application of any provisions of the 1963 Act, as the Collector either acts as a statutory authority on the executive side or as a quasi- judicial authority while determining the compensation or as an authority dealing with rights having civil consequences while making a reference. In all these three acts, there is no role that is exclusively judicial. As we have already discussed, only when the issue of compensation is decided by the Authority, who is a legally trained person entitled to exercise the powers of a Civil Court, followed by the declaration of an award deemed to be a decree, does an out-and-out judicial forum enter the picture. The proceedings before him are original in nature, with two parties appearing before him, of which even the Collector is a party, since it is his award that is under challenge. There is a reason why the Authority is expected to exercise an element of fair play by following the principles of natural justice which would otherwise inhere in a party before it. It is only the Court that is given the inherent power of formulating its own procedure when it is not provided under the statute. Thus, the reference made by the Collector to the Authority, which is akin to the institution of a suit before a Civil Court, does not attract the application of Section 5 of the 1963 Act. However, an application filed during the pendency of the reference, being akin to an application filed during the pendency of a suit, would attract the application of Section 5 of the 1963 Act. For example, when a party to a reference dies, and an application for bringing the legal representatives on record is filed belatedly, Section 5 of the 1963 Act would have to be pressed into service. Such a situation might also arise in appellate proceedings. To that extent, there is no bar.*
>
> *75. Section 74 of the 2013 Act provides for a first appeal, both, on facts and on law. This appellate proceeding before the High Court is nothing but a continuation of the original proceedings before the Authority. As already discussed earlier, Section 74 provides a period of 60 days for filing an appeal before the High Court, with an additional period of 60 days as per the proviso. The proviso does not extend the period of limitation, but merely brings a delayed filing within the ambit of the main provision. Being a mere proviso, it cannot be interpreted to mean an extension of the period of limitation.*
>
> *76. Thus, Section 74, along with its proviso, deals with only one period of limitation, which is 60 days. The proviso*

merely facilitates an appellant to file the appeal within a further period of 60 days which, in effect, brings the same within the fold of the initial 60 days. This provision, as a whole, does not involve an exercise of the power conferred to the Court under Section 5 of the 1963 Act. However, we must note that the 2013 Act does not take away from its purview the application of Sections 4 to 24 of the 1963 Act. We do not find any express exclusion contained in Section 74 of the 2013 Act. The 2013 Act being a subsequent legislation, it is obvious that the Legislature was conscious not to take away the application of Sections 4 to 24 of the 1963 Act from its purview.

77. As Section 74 of the 2013 Act does not exclude the application of Sections 4 to 24 of the 1963 Act, a limited interpretation of Section 5 of the 1963 Act alone cannot be given. What applies to exclusion shall apply to extension as well. In our considered view, the High Court, while exercising the power under Section 74 of the 2013 Act, is certainly entitled to draw its power from the sources available under the 1963 Act. We cannot introduce words that are not available in Section 74 through an imaginary interpretation in holding the existence of an express exclusion. It is a conscious decision made by the Legislature, and its knowledge must be inferred and implied. Thus, we are inclined to hold that there is not much difference between the main provision contained in Section 74(1) and its proviso. There is only one period mentioned for filing the appeal, meaning thereby that the other one mentioned under the proviso gets subsumed within the period provided under Section 74(1).

78. Furthermore, the intention of Section 103 of the 2013 Act is also to be seen, which clarifies that it is in addition to and not in derogation of the existing laws. It facilitates adequate borrowing from other enactments. In fact, the completeness of the 2013 Act comes from such borrowing, including from the 1963 Act. Any interpretation of Section 74 of the 2013 Act, barring the application of other enactments which would include the 1963 Act, would make Section 103 of the 2013 Act redundant and otiose. When the Legislature introduces a provision, there can be no interpretation in ignorance of it. Such an ignorant interpretation would also be dangerous, as it would amount to striking down the very provision itself even without a challenge.

79. Thus, we hold that the 1963 Act applies to the 2013 Act. Any interpretation to the contrary would result in a situation as if both Section 29(2) of the 1963 Act and Section 103 of the 2013 Act have vanished from the respective statutes, which is wholly impermissible in law. We must also remain conscious that any interpretation having the impact of destroying a right in seeking an adjudication on merits, should be eschewed unless it appears so on the very face of it. Even when two interpretations are possible, the one that facilitates the filing of an appeal must be approved.

80. Having understood Section 74 of the 2013 Act, we are inclined to hold that the issue being determination of just, fair and adequate compensation by the First Appellate Court having the trappings of the original one and keeping in mind the object and the intent of the enactment which Courts are duty-bound to give effect to rather than indulging in its destruction, a liberal approach has to be adopted, both, when dealing with a case *coming under the proviso or on an application of Section 5 of the 1963 Act.*

81. Thus, we have no hesitation in setting aside the impugned judgments rendered by the High Courts which have held that Section 5 of the 1963 Act has no application to Section 74 of the 2013 Act, particularly in view of the fact that the period of limitation provided under Section 74 must be read into the Schedule by the invocation of Section 3 of the 1963 Act."

38. The ratio of the aforesaid judgment, in our opinion, has to be understood in the backdrop of the statutory scheme of the 2013 Act. The Supreme Court was interpreting the provisions of a beneficial legislation enacted to secure just and fair compensation to land owners whose property is compulsorily acquired. The interpretation adopted by the court was guided by the object of advancing the remedy provided under the Act and ensuring that the substantive rights were not defeated on technical considerations relating to limitation.

39. The CGST Act, on the other hand, stands on an entirely different footing. It is a fiscal statute, constituting a self-contained code governing levy, assessment, recovery and appellate remedies under the GST regimes. The provision relating to limitation under Section 107 is an integral part of the statutory framework intended to ensure certainty, finality and expeditious adjudication of tax disputes. The nature, object and legislative scheme of the GST Act are materially different from those of the Act 2013. The limitation prescribed under Section 107 forms an integral part of the

appellate remedy itself and cannot be enlarged by resort to Section 5 of the Limitation Act in absence of any statutory indication permitting such enlargement. In fact, the Supreme Court itself was conscious of the aforesaid distinguishing features and, therefore, the judgment cited before it in relation to various taxing statutes and other legislations were distinguished. While drawing the said distinction, the Supreme Court has itself observed that a statute involving financial implications stands on a totally different footing. It is apposite to quote Paragraph nos.91 and 92 from the judgment where the said distinction has been drawn:-

> *"91. In the other judgments relied upon by the parties, this Court was dealing with different enactments such as the Arbitration and Conciliation Act, 1996, the Central Excise Act, 1944, the Customs Act, 1962, the Electricity Act, 2003, the Insolvency and Bankruptcy Code, 2016, the Foreign Exchange Management Act, 1999, the Special Courts (Trial of Offences relating to transaction in Securities) Act, 1992, the Consumer Protection Act, 1986, the Code of Criminal Procedure, 1898 and the Code of Criminal Procedure, 1973 and even the Representation of the People Act, 1951.*
>
> *92. These enactments travel on totally different fields involving different parties, different mechanisms and different authorities. In some cases, the appeals were preferred before the statutory authorities for distinct reliefs under the respective enactments. In many of them, this Court was concerned with statutory rights, and the respective statutes being dealt with did not contain any provision as contained in Section 103 of the 2013 Act. <u>A statute involving financial implications and, in some cases, a penalty, also stands on a totally different footing. There, the issue would be one of action taken, while we are concerned with the entitlement of a party.</u>"*

40. Therefore, unless the Supreme Court expressly overrules or distinguishes the fiscal precedents in the cases of ***Singh Enterprises, Hongo India Pvt. Ltd. and S.V. Global Mill Ltd.***, the decision in ***S.V. Global Mill Ltd.*** cannot be understood as altering the principles governing the interpretation of a fiscal statute as the present one.

41. In view of the above, we are of the considered opinion that the judgment in ***S.V. Global Mill Ltd.*** (supra) would also be of no help to the petitioners.

42. Having regard to the foregoing discussion, we hold that the Appellate Authority, under Section 107 of the CGST/ UKGST Act has no jurisdiction to entertain appeals beyond the period prescribed under Section 107(1) read with Section 107(4), and the applicability of Section 5 of the Limitation Act stands excluded by necessary implication.

43. Learned counsel for the Revenue also contended that the Commissioner (Appeals), while deciding appeals under Section 107(4) of the Act, is not a 'civil court' and that the provisions of Section 5 of the Limitation Act apply only to a court in the strict sense, as distinguished from a Tribunal or quasi-judicial authority. It was, therefore, submitted that the provision of Section 5 of the Limitation Act would even otherwise also not apply.

44. Since, however, we have already held, upon an examination of the scheme of the CGST/ UKGST Act, that Section 5 of the Limitation Act does not apply, therefore, we do not consider it necessary to examine the said submission and leave it open for being considered in an appropriate case.

45. Having answered the question of law, we direct the office to list the writ petitions next week for consideration of the factual matrix of each individual case to find out whether writ jurisdiction should be invoked to examine the validity of the original order, although, the appeals have been dismissed on ground of limitation.

(MANOJ KUMAR GUPTA, C.J.)

(SUBHASH UPADHYAY, J.)

Dated: 17th July, 2026
NISHANT