CGHC010254882022 2026:CGHC:35665

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 193 of 2022

- Banka Constructions GST No. 22AABFB1981G1ZW, Near Congress Bhawan, Tilak Nagar, Bilaspur, Through Its Partner Mahendra Banka, S/o Hanuman Prasad Banka, Aged About 68 Years, R/o - 48, Neelkanth, J.B. Nagar Andheri - East, Mumbai (M.H.)

... Petitioner

versus

1. State Of Chhattisgarh Department Of Commercial Tax Through Its Secretary, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh
2. Joint Commissioner Sales Tax-Bilaspur, Circle-II, Bilaspur, District : Bilaspur, Chhattisgarh
3. Assistant Commissioner State Tax-Bilaspur, Circle-II, Bilaspur, District : Bilaspur, Chhattisgarh

... Respondent(s)

For Petitioner	:	Mr. Alok Bakshi, Advocate
For State	:	Mr. Ajay Kumrani, Panel Lawyer

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

12.08.2026

1. By way of this petition, the petitioner has sought the following relief(s):-

> *"**10.1** That, the Hon'ble Court be pleased to issue appropriate writ order or direction, quashing the impugned orders dated 24.09.2021, passed by respondent no. 2(Annexure P-1) and 03.07.2019 passed by respondent no. 3 Annexures P/2.*
>
> ***10.2*** *That this Hon'ble Court may, kindly, be pleased to direct the respondent no. 2 to decide the appeal of the on merits.*

> *10.3 That, the Hon'ble Court may kindly be pleased to pass any other order, directions as it deems fit and proper in favour of the petitioner along-with the cost of the petition."*

2. Facts in brief are that the petitioner firm deals with construction activities including purchase of steel, cement, pipes and other articles. Vide order dated 30.07.2019, the respondent No. 3 imposed tax liability, interest and penalty upon the petitioner with respect to period from October, 2018 to December, 2018. The matter was fixed before the respondent No. 3 on 12.04.2019, but no-one appeared on behalf of the petitioner before the authority concerned and subsequently a notice dated 15.04.2019 was issued for presence of petitioner on 29.04.2019. On said dated also, no-one appeared, therefore, order was passed under Section 73(1) of CGST Act, 2017(for short "Act of 2017") in Form DRC01 and demand to the tune of Rs. 14,24,000/- with interest of Rs. 73,336/- under Section 50(1) of Act of 2017 was made vide order dated 03.07.2019. The petitioner failed to reply on said demand notice within a period of 30 days, therefore, penalty of Rs. 1,42,000/- was also imposed. The petitioner preferred an appeal before the respondent No. 2 on 07.09.2021 under Section 107(1) of Act of 2017, which was dismissed vide order dated 24.09.2021 and against said order this petition has been preferred.

3. Mr. Alok Bakshi, Advocate would submit that the order dated 03.07.2019 was never uploaded by the department and subsequently petitioner obtained original order on 27.07.2021 and preferred an appeal on 07.09.2021. He would contend that from date of knowledge, appeal was preferred within period of limitation. He would submit that the appellate authority dismissed the appeal preferred by the petitioner only on the ground that it was

presented after expiry of period of limitation i.e. 90+30 days. He would submit that the Bank account of the petitioner was frozen, and thereafter, the petitioner company came to know that an order has been passed against it. He would submit that sufficient cause was shown before the appellate authority, but grounds raised were not considered. He would pray to allow this petition. He has placed reliance on the judgment passed by the High Court of Madras in the matter of ***M/s. Sri Mutharamman Traders. vs. The State Tax Officer and Another*** passed in ***W.P. No. 18890 of 2023.***

4. On the other hand, Mr. Ajay Kumrani, Panel Lawyer would oppose. He would submit that notice was issued requiring presence of petitioner on 12.04.2019, again a notice dated 15.04.2019 was issued, but no-one appeared. With regard to demand raised by the answering respondent, it is contended that no-one appeared on said date, therefore, another notice was issued for appearance of the petitioner, which was served upon one Gaurav Dwivedi on behalf of the petitioner on 29.04.2019. Mr. Kumrani would submit that Gaurav Dwivedi was an official representative of petitioner company. He would submit that original order was passed by the respondent No. 3 on 03.07.2019, which was communicated through portal on the same date. He would contend that the petitioner preferred appeal on 07.09.2021 after expiry of period of limitation, and therefore, the appellate authority rightly dismissed the appeal preferred by the petitioner. He would contend that the appellate authority under Act of 2017 has not been conferred power to condone delay beyond 30 days. He would contend that the period of limitation to prefer an appeal is 90 days and for 30 days if the person aggrieved assigned sufficient reason for such delay, delay of such period can be condoned. It is contended that the appeal was preferred after two years,

therefore, the appellate authority rightly dismissed. He has placed reliance on the judgment passed by the Hon'ble Division Bench in the matter of ***Nandan Steels and Power Limited vs. State of Chhattisgarh and Others*** passed in ***W.A. No. 104 of 2021.***

5. I have heard learned counsel for the parties and perused the documents placed on record.

6. Admittedly, the original order was passed on 03.07.2019, whereas, appeal was preferred on 07.09.2021.

7. Section 107 of Act of 2017, which is relevant for adjudication of this case is reproduced herein-below :-

> ***"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.

x x x

x x x"

8. Bare reading of above-quoted provision would make it clear that if a person satisfies the appellate authority to the effect that he was prevented by sufficient cause from presenting the appeal within period of three months or six months from the date on which the said decision or order is communicated to such person may allow it to be presented within a further period of one month.

9. In the present case, as appeal was preferred by the petitioner under Section 107(1) of the Act of 2017 after expiry of 2 years, therefore, the appellate authority dismissed the appeal.

10. In the matter of ***Nandan Steels and Power Limited*** (supra), the Hon'ble

Division Bench held that the Legislature has not provided any specific time limit for entertainment of an appeal after expiry of the period of limitation. Section 107(1) of Act of 2017 states that appeal may be filed within three months from the date on which the decision or order is communicated to such person, whereas, Section 107(4) of Act of 2017 states that on sufficient cause being shown, the Appellate Authority may allow the appeal to be presented within a further period of one month. The Legislature has not applied the Limitation Act proceedings to be taken under CGST Act. Relevant para 32 is reproduced herein-below :-

> ***"32.*** *A perusal of the above Sections go to show that in respect of an appeal to the High Court, the Legislature has not provided any specific time limit for entertainment of an appeal after expiry of the period of limitation if it is satisfied that there was sufficient cause for not filing the same within the period of limitation. In respect of an appeal under Section 107(1) of CGST Act, it is provided that the appeal may be filed within three months from the date on which the decision or order is communicated to such person. Section 107(4) of CGST Act lays down that on sufficient cause being shown, the Appellate Authority may allow the appeal to be presented within a further period of one month. The same would go to show that the legislative intent was not to apply the Limitation Act in the proceedings to be taken under the CGST Act. If the intention had been otherwise, there would have been no occasion for conferring specifically power to the High Court to entertain an appeal after the expiry of the period of limitation of 180 days if it was satisfied that there was*

> *sufficient cause for not filing it within such period as Section 5 of the Limitation Act would have become applicable by virtue of Section 29(2) of the Limitation Act. Absence of the words 'but not thereafter' as appearing in the Act of 1996 is of no moment. It is to be noted that the words 'but not thereafter' were also absent in the provisions which had fallen for consideration of the Hon'ble Supreme Court in Hongo India (supra), Assistant Commissioner (CT) LTU, Kakinada & Others (supra) and Singh Enterprises (supra)."*

11. In the matter of ***M/s. Sri Mutharamman Traders*** (supra), there was delay of 10 days in filing appeal under Act of 2017. In said case, the delay was duly explained, and therefore, liberty was granted to the petitioner therein to re-present the appeal from period of one (1) week from the date of receipt of copy.

12. In the present case, there was huge delay of two years and it was not properly explained by the petitioner, therefore, the appellate authority dismissed the appeal preferred by the petitioner.

13. Having considered the facts of the present case and law laid down by the Hon'ble Division Bench, I do not find any good ground to interfere with the order passed by the appellate authority.

14. Accordingly, this petition fails and is hereby **dismissed.**

Sd/-
(Rakesh Mohan Pandey)
JUDGE

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