HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Civil Writ Petition No. 13071/2024

M/s Giri Transport Company, Through Its Proprietor Sh. Sunil Giri S/o Shri Bal Giri Aged About 30 Years Having Its Office At M/s Giri Transport Company, Near Swami Dharamshala, Ward No. 12, Suratgarh - 335804 (Rajasthan)

----Petitioner

Versus

1. The Appellate Authority For Advance Ruling, Rajasthan, Goods And Services Tax, Ncr Building, Statute Circle, C Scheme, Jaipur, Rajasthan - 302005.
2. The Rajasthan Authority For Advance Ruling, Goods And Services Tax Kar Bhawan Ambedkar Circle, Jaipur, Rajasthan - 302005.
3. The Deputy Commissioner, State Tax Department, Circle Suratgarh Ward-I, Zone Ganganagar, Kar Bhawan, Near Sadar Police Station, Hanumangarh Road, Suratgarh, Rajasthan 335804.
4. The Joint Commissioner, State Tax Department, Circle Suratgarh Ward I, Zone Ganganagar Kar Bhawan, Near Sadar Police Station, Hanumangarh Road, Suratgarh, Rajasthan - 335804.
5. State Of Rajasthan Through The Finance Secretary (Revenue), Finance Department, Government Of Rajasthan, 1St Floor, Main Building, Government Secretariat, Janpath, Jaipur, Rajasthan - 302005.
6. The Principal Commissioner, Cgst And Cx/st Jodhpur, G-105 Road No. 5, Aiims Hospital, New Industrial Area, Basni, Near Diesel Shed, Jodhpur, Rajasthan - 342003.
7. Union Of India, Through The Revenue Secretary, Ministry Of Finance, North Block, New Delhi - 110001.

----Respondents

For Petitioner(s)	:	Mr.Sanjay Jhanwar, Sr. Advocate assisted by Mr. Wilson Joy
For Respondent(s)	:	Mr.Mahaveer Bishnoi, AAG assisted by Mr.Harshvardhan Singh Chundawat. Mr.Kuldeep Vaishnav with Mr.Arpit Yoganandi. Mr.Nilesh Choudhary.

HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE SUNIL BENIWAL

Order

Reportable

Judgment Reserved on :- 07/04/2026

Pronounced on :- 20/05/2026

By the Court (Per, Arun Monga, J) :-

1. Impugned herein is an order dated 01.07.2024 passed by the Chief Commissioner (SGST), Jaipur, whereby the preliminary objections raised by the petitioner on the pending appeal filed by the Department against the Advance Ruling dated 16.06.2022 were overruled. The pending appeal was thus directed to be heard on merits.

FACTS

2. In order to comprehend the issue failing for our consideration, relevant facts are first required to be noticed.

2.1. The petitioner, a Goods Transport Agency, filed an application under Section 97 of the RGST Act, 2017 seeking an advance ruling on whether the value of diesel supplied free of cost (FOC) by the service recipient is liable to be included in the taxable value of transport services.

2.2. In the said proceedings, respondent No.3, being the jurisdictional as well as the concerned officer under Section 98 of the RGST Act, participated in his official capacity and supported the case of the petitioner.

2.3. He (respondent No.3) took a categorical stand that GST is not leviable on FOC diesel supplied by the service recipient when such goods remain within the contractual scope of the recipient.

2.4. Respondent No.2 i.e. Rajasthan Authority for Advance Ruling, Goods and Service Tax, Kar Bhawan Ambedkar Circle, Jaipur passed an

Advance Ruling dated 16.06.2022 holding that the value of such diesel is not includable in the taxable value of goods transport services.

2.5. Thereafter, two appeals were filed against the said Advance Ruling, one by respondent No.6 and second by respondent No.3 itself.

2.6. Upon the petitioner seeking clarification from the office of respondent No.2, it was revealed that the ruling was dispatched in June 2022 and duly delivered to the concerned officers within the same month. The ruling was also uploaded on the GST portal on 17.06.2022, thereby constituting valid communication under the provisions of the Act.

2.7. Notwithstanding, both appeals were filed on 12.08.2022 (by respondent No.6) and 14.10.2022 (by respondent No.3) i.e. beyond the prescribed limitation period, and without any proper application for condonation of delay.

2.8. Detailed preliminary objections on the maintainability of the appeals on multiple grounds, including limitation, procedural irregularities, lack of jurisdiction, expiry of statutory timelines for adjudication, and impermissibility of the department taking contradictory stands were raised.

2.9. This is second foray of the petitioner before this Court. The petitioner had earlier approached this Court vide CWP No.14009/2022 which was disposed of vide order dated 22.09.2022 directing that aforesaid preliminary objections be decided prior to adjudication on merits.

2.10. Thereafter, the matter remained dormant for more than a year, leading the petitioner to reasonably believe that the proceedings had been dropped. However, the appellate proceedings were abruptly revived in March 2024 and respondent No.1 proceeded to pass the impugned order dated 01.07.2024 rejecting all preliminary objections,

inter alia, by treating statutory timelines as directory, condoning delays, and accepting the changed stand of the department.

2.11. Hence, the instant petition.

3. **ARGUMENTS ON BEHALF OF THE PETITIONER**

3.1. Learned counsel for the petitioner argued that the impugned order dated 01.07.2024 passed by respondent No.1 is ex facie illegal, perverse, arbitrary, contrary to the facts on record and the settled provisions of law, and has been passed in gross violation of the principles of natural justice. Respondent No.1 has gravely erred in assuming jurisdiction to proceed with the appeals despite the expiry of the statutory time limit prescribed under Section 101(2) of the RGST Act, thereby rendering the entire proceedings non-est in the eyes of law.

3.2. He submitted that the use of the expression "shall" in Section 101(2) clearly makes the requirement of passing the order within 90 days mandatory, and a plain reading of the provision mandates strict adherence to the prescribed timeline, failing which the proceedings stand vitiated.

3.3. Learned counsel for the petitioner further stated that Chapter XVII of the RGST Act, dealing with advance ruling, is a complete code in itself prescribing strict timelines for expeditious adjudication. The absence of expressions such as "as far as possible" or "where it is possible" in Section 101(2), unlike other provisions, reflects a clear legislative intent to make the 90-day period mandatory.

3.4. He submitted that no proceedings were conducted for more than 1.2 years after filing of the appeals and preliminary objections, and therefore, the proceedings are vitiated on account of inordinate delay.

3.5. Learned counsel for the petitioner argued that the appeals filed by respondent No.3 and respondent No.6 are barred by limitation, having

been filed beyond the statutory period prescribed under Section 100(2) of the RGST Act, and that respondent No.1 has no authority to condone delay beyond the permissible period.

3.6. He submitted that the Advance Ruling dated 16.06.2022 was duly communicated in June 2022 through Speed Post as well as by uploading on the GST portal, which constitutes valid service under Section 169 of the Act, and therefore, the appeals filed thereafter are time-barred.

3.7. Learned counsel for the petitioner further submitted that material evidence regarding the date of communication, including the India Post tracking report and the letter dated 15.09.2022 issued by respondent No.2 confirming service through Speed Post dated 21.06.2022, has been disregarded without assigning reasons, while the version of respondent No.3 has been accepted without verification.

3.8. He submitted that respondent No.6 lacks locus standi to file the appeal as it is neither the 'jurisdictional officer' nor the 'concerned officer' within the meaning of the RGST Act, and had not participated in the advance ruling proceedings.

3.9. Learned counsel for the petitioner further submitted that permitting respondent No.6 to file the appeal is contrary to the scheme of Sections 98 and 100, the FAQs issued by CBIC, and Section 6(2)(b) of the CGST Act, and would result in multiplicity of proceedings despite the matter having been dealt with by the jurisdictional officer, i.e., respondent No.3.

3.10. He submitted that respondent No.6 has, in any case, not pursued its appeal by participating in the proceedings or filing replies, and the same deserves to be treated as non-est.

3.11. Learned counsel for the petitioner stated that respondent No.3, having represented the department and supported the petitioner's case before the Advance Ruling Authority, cannot be permitted to take a

contradictory stand in appeal, particularly in the absence of any material showing lack of authority at the relevant time.

3.12. He further submitted that the explanation regarding absence of approval from higher authorities is unsupported by any evidence and cannot justify either the change in stand or the delay in filing the appeal.

3.13. Learned counsel for the petitioner also stated that the condonation of delay by respondent No.1 is mechanical and without recording satisfaction regarding the existence of sufficient cause, as required under law.

3.14. He submitted that the appeals have not been filed in accordance with the prescribed procedure, as they were filed in hard copy instead of electronically as mandated under Section 100(3) read with Rule 106, and no sufficient cause has been shown for such deviation.

3.15. Learned counsel for the petitioner further stated that the impugned order has been passed without furnishing the documents relied upon and without granting an effective opportunity to rebut the same, thereby violating the principles of natural justice.

3.16. He submitted that the advance ruling provisions are special provisions intended to provide clarity on tax issues in a time-bound manner, and therefore, the limitation periods prescribed therein must be strictly construed.

3.17. Learned counsel for the petitioner submitted that in terms of Section 103 of the CGST/SGST Act, an advance ruling is binding in personam, and permitting multiple or parallel appeals would defeat the object of the statutory scheme.

3.18. He submitted that the Advance Ruling dated 16.06.2022 is a well-reasoned and speaking order passed after considering all relevant facts and does not warrant interference.

3.19. Learned counsel for the petitioner also stated that this Court had earlier granted liberty to challenge the order deciding the preliminary objections, and hence, the present petition is maintainable.

3.20. Lastly, he submitted that the issuance of the personal hearing notice dated 03.07.2024 immediately after passing the impugned order, without granting reasonable time to challenge the same, is arbitrary and unsustainable, and respondent No.1 cannot proceed further without affording the petitioner an opportunity to avail appropriate legal remedies.

4. **ARGUMENTS ON BEHALF OF THE RESPONDENTS**

4.1. The respondents have filed reply opposing the writ petition. The stand taken by them, inter alia, is that the writ petition is founded entirely on hyper-technical grounds and deserves to be dismissed in limine. On the merits of the underlying issue, the respondents contend that diesel is an essential and indispensable component of GTA service, without which no transportation service can be rendered. The value of FOC diesel provided by the service recipient falls squarely within the definition of "consideration" under Section 2(31) of the Act and is also includable in the value of supply under Section 15(2)(b).

4.2. The respondents further point out that the petitioner has been filing returns showing zero tax liability since registration on 08.03.2022, which raises doubts about the genuineness of the advance ruling application, which was based on a hypothetical and unexecuted contract. Reliance is placed on the judgment of the Chhattisgarh High Court in ***M/s Shree Jeet Transport v. Union of India***[1], wherein it has been held that FOC diesel must be included in the value of GTA service for GST purposes.

1. 2023 SCC OnLine Chh 5982.

4.3. On the question of the 90-day time limit under Section 101(2), the respondents submit that the word "shall" is directory and not mandatory, as no consequence for non-compliance has been prescribed, and the provision cannot be construed to defeat the right of appeal. Reliance is placed on the judgment of the Hon'ble Supreme Court in ***Municipal Committee, Charkhi Dadri v. Ramji Lal Bagla***[2].

4.4. The respondents have stated that the delay in disposal of the appeals was caused by the petitioner itself. The petitioner approached the High Court instead of filing preliminary objections before the AAAR, and despite directions dated 22.09.2022, did not file such objections until 07.03.2024. The earlier communications claimed to be preliminary objections were not received in the AAAR office. The petitioner, having contributed to the delay, cannot seek relief on that ground.

4.5. On limitation, the respondents submit that respondent No. 6 received the advance ruling along with the AAR's letter dated 15.09.2022 and filed the appeal on 14.10.2022 within 30 days thereof. The appeal filed by respondent No.6 (CGST) on 11.08.2022 was within the permissible extended period of 60 days and the condonation granted is in accordance with law.

4.6. It is further submitted that the procedure prescribed under Rule 106 for filing appeals is directory in nature and does not bar manual filing. Rule 107 permits filing of appeals manually, and therefore, the objection regarding filing of appeal in hard copy is untenable.

4.7. On the issue of jurisdiction, it is submitted that the 'concerned officer' and 'jurisdictional officer' are distinct authorities. Under the GST framework, both Central GST and State GST officers exercise territorial jurisdiction over a taxable person, and therefore, both are entitled to file appeals against an advance ruling. In the present case, the SGST

2. (1995) 5 SCC 272.

officer is the jurisdictional officer and the CGST officer is the concerned officer.

4.8. The respondents further submit that the petitioner, instead of participating in the proceedings before the AAAR and making submissions on merits, has approached this Court at a premature stage on technical grounds. The impugned order only calls upon the petitioner to appear and make submissions, and therefore, the writ petition deserves to be dismissed on this ground alone.

4.9. It is submitted that the petitioner has taken contradictory stands by simultaneously challenging the appeal of the State on limitation and disputing the locus of the CGST officer to file the appeal, thereby attempting to delay the adjudication of the matter.

4.10. The respondents submit that the CGST department, being a 'concerned officer', is entitled to file an appeal under Section 100(1) of the CGST Act, and the appeal filed within 56 days from the date of the advance ruling is within the permissible period of 30 days plus an additional 30 days, which has been rightly condoned by the Appellate Authority in accordance with law.

5. We have learned counsel for the parties and perused the material available on record.

6. First and foremost, before proceeding further, for understanding as to what weighed on the mind of the learned authority, the impugned order be seen. Perusal thereof, *inter alia*, reveals that the Appellate Authority for Advance Ruling, Rajasthan, vide order dated 01.07.2024, considered and rejected all five preliminary objections raised by the respondent against the departmental appeals filed challenging the AAR's ruling dated 16.06.2022, which had held that FOC diesel provided by the service recipient is not includable in the value of GTA services.

6.1. On the first objection that the 90-day time limit under Section 101(2) had expired, the Authority held that "shall" in that provision is directory and not mandatory, as construing it as mandatory would extinguish the very right of appeal the provision was designed to protect. The statute prescribes no consequence for non-compliance with the timeline, further affirming its directory nature, relying upon a catena of Supreme Court judgments.

6.2. On the second objection of limitation under Section 100(2), the Authority found that appellant No. 1 (CGST, Jodhpur) received the ruling on 29.06.2022 and filed its appeal on 12.08.2022, with delay of 21 days which was condoned. Appellant No. 2 (SGST, Suratgarh) received the ruling on 15.09.2022 and filed its appeal on 14.10.2022, which was within the statutory 30-day period. Both appeals were held to be within time.

6.3. On the third objection regarding hard copy filing, the Authority held that Rule 107A of the CGST Rules expressly saves manual filing, and online filing is merely a facilitative measure and not a jurisdictional requirement.

6.4. On the fourth objection challenging the locus of the CGST authority, the Authority held that "concerned officer" and "jurisdictional officer" are two distinct authorities under Sections 98 and 100, *ibid* of CGST Act, one from Central GST and one from State GST, and both are independently entitled to file appeals, making the CGST appeal perfectly maintainable.

6.5. On the fifth objection of estoppel, the Authority held that there is no estoppel against the State or against a statute, and that the initial stand taken by the subordinate State GST officer without approval of higher authorities was not binding on the department. The appeal filed after due consideration by competent higher authorities was held to be

maintainable. All preliminary objections were accordingly rejected and the appeals were held to be maintainable and directed to be heard on merits.

DISCUSSION & ANALYSIS

7. Having given our thought to the rival arguments and the appellate order as well as having also gone through the order passed by the advance ruling authority we of the opinion that no interference is warranted under the extraordinary jurisdiction of this court. Let us see how. Though, suffice it would be to observe that we find ourselves in agreement with sound logic and reasoning adopted by learned Appellate Authority and thus, we need add no more than to simply reiterate the same but our reasons along with the discussion are recorded in the succeeding part of the instant order.

8. On the contention, the 90-day time limit under Section 101(2) being mandatory; that no proceedings were conducted for over one and a half years and; the appeals therefore stood extinguished, it must be noted that delay in adjudication by a quasi-judicial authority, however regrettable, does not have the effect of annulling proceedings or giving finality to an order that is validly under challenge. There is no provision in the CGST or RGST Act that provides for automatic lapsing of an appeal upon expiry of the 90-day period, nor does the Act prescribe any consequence for non-compliance with this timeline. The absence of a penal consequence for delay is itself a strong indicator that the provision is directory. The petitioner's reliance on mere passage of time, without any prejudice demonstrated, cannot be a ground to shut out a legitimate appeal on merits.

8.1. For ready reference Section 101(2) is reproduced is hereinbelow:-

> *"**Section 101-Orders of Appellate Authority***
> *(1) The Appellate Authority may, after giving the parties to the appeal or reference an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against or referred to.*

> *(2) The order referred to in sub-section (1) shall be passed within a period of ninety days from the date of filing of the appeal under section 100 or a reference under sub-section (5) of section 98.*
> *(3) Where the members of the Appellate Authority differ on any point or points referred to in appeal or reference, it shall be deemed that no advance ruling can be issued in respect of the question under the appeal or reference.*
> *(4) A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer, the jurisdictional officer and to the Authority after such pronouncement."*

8.2. The argument that the absence of the phrase "as far as possible" in Section 101(2), unlike in Sections 101C and 107 of CGST Act, demonstrates a conscious legislative intent to make the timeline mandatory is a purely textual argument. No doubt, ordinarily word 'shall' prima-facie is used as an imperative. However, the settled principle is that legislative intent is also to be gathered from the statute as a whole and not just from the presence or absence of particular phrases in isolation. More importantly, the petitioner's interpretation leads to an absurd and unjust consequence, that the right of appeal conferred upon the jurisdictional and concerned officers by Section 100 is automatically extinguished by the mere passage of time, regardless of the reasons for delay and regardless of whether the parties were even heard. A provision whose strict construction destroys the very right it was designed to protect cannot be read as mandatory. The 90-day period is therefore directory, being an outer limit to ensure expeditious disposal and not a jurisdictional condition precedent to the exercise of appellate power.

8.3. The use of the word "shall" in a statute does not by itself thus render a provision mandatory in every case. The Hon'ble Supreme Court has also held in **Mohan Singh v. International Airport Authority of India[3], Bachahan Devi v. Nagar Nigam Gorakhpur[4], and Dinesh Chandra Pandey v. High Court of Madhya Pradesh[5]**,

3. (1997) 9 SCC 132.
4. (2008) 12 SCC 372.
5. (2010) 11 SCC 500.

that whether "shall" is mandatory or directory depends upon the context, the object of the provision, the scheme of the statute, and the consequences that would flow from the interpretation thereof.

9. On the question of limitation for filing the appeals, the Appellate Authority has rightly relied upon the dates of actual receipt of the advance ruling as communicated to the respective appellants, namely 29.06.2022 for Appellant No.1 and 15.09.2022 for Appellant No.2. The petitioner's reliance on India Post tracking data and the portal upload date of 17.06.2022 as constituting valid communication under Section 169 does not automatically override documentary evidence of actual receipt by the office of the concerned officer. For ready reference Section 169 of the CGST Act, 2017 is reproduced hereinbelow:-

> ***"Section 169. Service of notice in certain circumstances.-***
> *(1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely*
> *(a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or*
> *(b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or*
> *(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or*
> *(d) by making it available on the common portal; or*
> *(e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or*
> *(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.*
> *(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).*
> *(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved."*

9.1. Section 169 prescribes modes of service, but communication for the purpose of limitation must be reckoned from the date of actual receipt where such date is specifically established. Appellant No.2 received the order on 15.09.2022 and filed the appeal on 14.10.2022, which is squarely within 30 days. Appellant No.1 received the order on 29.06.2022 and filed the appeal on 12.08.2022 with a request for condonation of delay, which was duly considered and condoned.

9.2. On the alleged contradictions in respondent No. 6's case regarding date of receipt and the improbability of filing an appeal on the day after receipt, these are at best factual contentions that go to the weight of evidence and do not constitute legal grounds for dismissing the appeal as non-maintainable. The Appellate Authority, having examined the material, accepted the date of 15.09.2022 as the date of communication to Appellant No.2 and found the appeal to be within time. This is a finding of fact that does not warrant interference in writ jurisdiction merely because the petitioner disputes the veracity of the claimed date of receipt.

9.3. Furthermore, the condonation was not mechanical, the Authority applied its mind to the cause shown and exercised the discretion conferred by the proviso to Section 100(2). For ready reference Section 100 of the CGST Act, 2017 is reproduced hereinbelow:-

> ***"100- Appeal to Appellate Authority:-***
>
> *(1) The concerned officer, the jurisdictional officer or an applicant aggrieved by any Advance Ruling pronounced under sub-section (4) of Section 98, may appeal to the Appellate Authority.*
>
> *(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the concerned officer, the jurisdictional officer and the applicant:*
>
> *Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, allow it to be presented within a further period not exceeding thirty days.*
>
> *(3) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed."*

9.4. Thus, on the question of limitation, the appeal filed by the CGST authority on 12.08.2022 against the AAR order dated 16.06.2022 falls squarely within the maximum permissible period prescribed under Section 100(2), *ibid*. The provision allows filing of an appeal within 30 days, extendable by a further 30 days upon sufficient cause being shown, making the outer limit 60 days. The CGST authority filed its appeal within 56 days, which is well within this outer limit. The Appellate Authority has dealt with this aspect in detail in the impugned order and the condonation granted is neither mechanical nor arbitrary, it is a valid exercise of statutory discretion in accordance with the proviso to Section 100(2), *ibid*.

9.5. In light of the above, no further elaborate reasons are required to be recorded for condonation of a delay of merely 15 to 21 days in a matter involving a question of law of significance to the entire State. There is no infirmity in this finding.

10. As regards the locus standi of respondent No.6, it is clear from the plain language of Sections 98 and 100 of the Act that the terms "concerned officer" and "jurisdictional officer" refer to two distinct authorities, one from Central GST and one from State GST. For ready reference Section 98 is reproduced hereinbelow:-

> ***"98. Procedure on receipt of application-***
> *(1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the concerned officer and, if necessary, call upon him to furnish the relevant records:*
> *Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said concerned officer.*
> *(2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:*
> *Provided that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:*
> *Provided further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant:*

Provided also that where the application is rejected, the reasons for such rejection shall be specified in the order.

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the concerned officer.

(4) Where an application is admitted under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or his authorised representative as well as to the concerned officer or his authorised representative, pronounce its advance ruling on the question specified in the application.

(5) Where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.

(6) The Authority shall pronounce its advance ruling in writing within ninety days from the date of receipt of application.

(7) A copy of the advance ruling pronounced by the Authority duly signed by the members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement."

The Act does not restrict the right of appeal to whichever of the two happened to participate in the advance ruling proceedings. The statute confers the right of appeal on both, and this right cannot be extinguished on the ground that one of them did not appear or represent the department before the AAR. Jurisdiction and right of appeal are statutory, they do not depend upon prior participation in the proceedings below.

11. Also, on the question of jurisdiction and locus standi, the petitioner's argument that the CGST authority was neither the concerned officer nor the jurisdictional officer is directly answered by the plain language of Section 100(1), *ibid*, which confers the right of appeal upon the concerned officer, the jurisdictional officer, or the aggrieved applicant. Under the GST framework, two officers exercise territorial jurisdiction over every taxable person, one from CGST and one from SGST. They occupy distinct roles and cannot be treated as one and the same. This is further evident from the AAR's own letter at page 207 of the writ petition, which clearly identifies the SGST officer as the jurisdictional officer and the CGST officer as the concerned officer. Both

are therefore independently entitled to file an appeal, and the CGST authority's appeal is perfectly maintainable under Section 100(1), *ibid*.

12. On the argument that reliance on correspondences dated 31.05.2024, 05.06.2024, and 12.06.2024 without supplying copies to the petitioner violated natural justice, it must be noted that these communications were internal inquiries directed to the appellants themselves for ascertaining the dates of receipt of the advance ruling, a purely procedural step to adjudicate the limitation objection raised by the petitioner itself. The substance of these communications and the findings drawn therefrom have been fully disclosed in the impugned order. The petitioner cannot complain of prejudice when the very objection of limitation was raised at its instance and the Authority merely verified the factual position before deciding it. Natural justice does not require that every piece of internal administrative correspondence be furnished to the opposite party before a finding is recorded, so long as the final decision discloses the material relied upon and the party had a meaningful opportunity to be heard on the issue.

13. On the question of estoppel i.e. respondent No.3 having taken a U-turn, it is a settled and fundamental principle of constitutional and administrative law that there is no estoppel against the State in matters of taxation and statutory duty. A representation or stand taken by a subordinate officer without due authority and without proper application of mind by the competent authority cannot bind the State or the department. The Supreme Court has consistently held that promissory estoppel operates only where the representation was within the competence of the authority making it. The stand taken by the jurisdictional officer before the AAR was admittedly without the approval of higher authorities and was subsequently found to be legally incorrect by those authorities. The department's right to correct such an error

through the statutory remedy of appeal cannot be defeated by the doctrine of estoppel.

14. On the procedural objection regarding filing of appeals in hard copy, Rule 107A of the CGST Rules expressly saves manual filing of applications, replies, and other documents notwithstanding any provision requiring electronic filing. This is a complete answer to the procedural objection and the petitioner's contention that no relaxation has been provided in law is factually incorrect. Rule 107A is reproduced hereinbelow:-

> *"**107A-Manual filing and processing:-***
> *Notwithstanding anything contained in this Chapter, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to these rules."*

14.1. Thus, Rule 107A of the CGST Rules expressly permits manual filing of documents notwithstanding any provision that prescribes electronic filing. Rule 106 prescribes the procedure for filing an appeal on the common portal but does not prohibit or invalidate manual filing. A procedural prescription cannot be elevated into a jurisdictional bar, and the appeals cannot be thrown out on this purely technical ground.

15. Aside all of above, the impugned order dated 01.07.2024 does nothing more than reject the preliminary objections and request the petitioner to appear and make submissions on merits before the Appellate Authority. The petitioner, instead of availing this opportunity and participating in the merits adjudication, has rushed to this Court for the second time, the first occasion being when the appeal was filed, at which time also this Court directed that the preliminary objections be decided first. Having obtained that direction, and having had all preliminary objections decided and rejected on well-reasoned grounds,

the petitioner has once again approached this Court on the same technical grounds that have already been examined and repelled by the Appellate Authority. This conduct reveals a clear attempt to indefinitely delay the final adjudication on merits. The petitioner cannot be permitted to use the writ jurisdiction of this Court as an instrument of delay.

CONCLUSION

16. As an upshot, the writ petition is bereft of any merit. The petitioner ought to join proceedings under appeal and appear before the Appellate Authority.

17. The writ petition is dismissed accordingly.

18. All pending application(s) stand disposed of accordingly.

(SUNIL BENIWAL),J **(ARUN MONGA),J**

1-Raksha/-