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HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/B) No. 704 of 2026

09 September, 2026

Nand Kishore Garg

--Petitioner

Versus

Assistant Commissioner, Central Goods and Services Tax

--Respondent

Present:-

Mr. Rohit Arora, learned counsel for the petitioner.
Mr. Shobhit Saharia, learned counsel for the respondents.

Coram:Hon'ble Manoj Kumar Tiwari, J.
Hon'ble Siddhartha Sah, J.

Hon'ble Manoj Kumar Tiwari, J. (Oral)

Petitioner submitted an application for rectification of Order-in-Original dated 29.08.2024, passed by Assistant Commissioner, CGST Division, Rudrapur. That rectification application was submitted by the petitioner on 17.01.2025 well within the time as per Notification No. 22/2024-CT dated 08.10.2024. Since decision on the rectification application was not taken for a considerable period of time, petitioner filed Writ Petition (M/B) No. 331 of 2026, Nand Kishore Garg vs. Assistant Commissioner, Central Gooods and Services Tax, which was disposed of by Coordinate Bench of this Court on 05.05.2026 with a direction to the concerned authority to decide the

rectification application within a period of eight weeks from the date of presentation of a certified copy of the order.

2. The rectification application submitted by the petitioner is rejected by the order dated 30.06.2026. The reason for rejection of that application is indicated in paragraph nos. 6.7, 7 & 8 of the impugned order, which is reproduced below:-

> "6.7 As per aforesaid discussion, as per provisions laid down in Section 161 of the CGST Act, 2017 prescribes that *"The proper officer for carrying out rectification of the said order shall be the authority who had issued such order, and the said authority shall take a decision on the said application and issue the rectified order, as far as possible, within a period of three months from the date of the of issue of such decision or order or notice or certificate or any other document, as the case may be."* Since, the OIO dated 29.08.2024 was uploaded on portal on 30.08.2024 vide ref. No. ZD0508240226992 dated 30.08.2024, order of rectification should have been passed within three months of the date of its issuance i.e. up to 30.11.2024 or not beyond 28.02.2025 as rectification shall not be done after a period of six months from the date of issuance of such order.
>
> Further, I find that as per the provisions of Notification No. 22/2024-CT dated 08.10.2024, last date to decide the said rectification application was on or before 17.04.2025.
>
> 7. Since, the present adjudicating authority/proper officer has joined the jurisdictional position on 26.05.2025 only, the time due for the passing rectification order in the instant case was already been lapsed. I further find that due to issues in the BO portal, the application of rectification was also not reflecting at the end of the present adjudicating authority/proper officer.

> 8. In view of the above discussions and findings, being time barred, rectification in the instant OIO cannot be done at this point of time as per provisions laid down under Section 161 of the CGST Act, 2017 as well as time-line prescribed under 22/2024-CT dated 08.10.2024. Thus, I have no other option than to dispose the application filed by the applicant for rectification in OIO reference No. ZD0508240226992 dated 30.08.2024 [OIO No.17/AC/CGST/Rudrapur /2024-25 dated 29.08.2024] without considering the ground made in the application and accordingly, making any rectification in the said order."

3. Learned counsel for the petitioner submits that the reason assigned for rejecting petitioner's rectification application is unsustainable, as Clause-4 of the Notification dated 08.10.2024 (which is reproduced in paragraph 6.7 of the impugned order) nowhere provides that a decision, if not taken on the rectification application within three months, cannot be taken thereafter. He submits that the expression used in Clause-4 of Notification dated 08.10.2024 is that decision on rectification application shall be taken as far as possible within three months from the date of making such application. He further submits that the Assistant Commissioner, CGST Division, Rudrapur, in paragraph 6.6 of the impugned order has admitted that the rectification application was filed by the petitioner well within time as prescribed under Notification dated 08.10.2024, therefore, that application could not have been rejected only on the ground that a period of more than three months has elapsed after filing of that application. He further submits that the

impugned order dated 30.06.2026 is in teeth of the Division Bench order of this Court passed in Writ Petition (M/B) No. 331 of 2026, Nand Kishore Garg Vs. Assistant Commissioner Central Goods and Services Tax, where the competent authority was asked to take a decision on petitioner's rectification application on merits.

4. We find substance in the submission made by learned counsel for the petitioner.

5. Since petitioner's application for rectification was made well within time, therefore, the competent authority could not have refused to decide the application on merits merely because a period of more than three months has elapsed after filing of the application. Clause-4 of the Notification dated 08.10.2024 unequivocally fixes a timeline of three months, however, that timeline is not mandatorily to be followed, and it indicates that the competent authority shall make endeavor to take decision on rectification application within three months; but it doesn't mean that once three months' period has expired, the competent authority becomes *functus officio* or loses the power to decide the application on merits.

6. In such view of the matter, the impugned order dated 30.06.2026 is quashed and set aside. The matter is remitted back to the Assistant Commissioner, CGST

Division, Rudrapur to decide the rectification application of the petitioner on merits within a period of three months.

(Siddhartha Sah, J.)
09.09.2026

(Manoj Kumar Tiwari, J.)
09.09.2026

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