HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

D.B. Civil Writ Petition No. 20242/2026
CNR: RJHC010835132026 | URN: CW / 34393U / 2026

Shree Govind Construction Company, Through Its Proprietor Shri Dinesh Acharya S/o Ramesh Chand Acharya, Aged About 39 Years, Having Place Of Business At Raghunath Ji Ki Pirole, Suranon Ka Mohalla, Acharyon Ka Chowk, Bikaner- 334001 (Rajasthan).

----Petitioner

Versus

1. Union Of India, Through Chief Commissioner, Central Goods And Service Tax, Central Revenue Building, Statue Circle, Jaipur- 302010 (Rajasthan).
2. State Of Rajasthan, Through Commissioner, State Goods And Service Tax, Commercial Taxes Department, Kar Bhawan, Ambedkar Circle Jaipur- 302010 (Rajasthan).
3. The Appellate Authority, State Gst, Near Second Entry Gate Of Railway Station, Bikaner- 334001 (Rajasthan).
4. Asstt Commissioner, State Tax, Ward-1, Circle-C, Kar Bhawan, Tulsi Circle, Bikaner- 334001 (Rajasthan).

----Respondents

For Petitioner(s)	:	Mr. Shafi Mohammad Chouhan on Vc Mr. Naresh Kumar
For Respondent(s)	:	Mr. Mahaveer Bishnoi, AAG with Mr. Harshvardhan Singh

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

Order

19/08/2026

1. The present writ petition has been preferred by the petitioner claiming the following reliefs :-

"i) To condone the delay in filing of the First Appeal and set aside the order of the Respondent No.3 dated 01.07.2026 (Annex.6).

ii) To issue necessary directions to the Respondent No.3 i.e. Appellate Authority to allow an opportunity of being heard to the petitioner and decide the appeal on the merits of the case.

iii) To issue necessary directions to the Respondent No.4 not to take any coercive steps for recovery till the disposal of the appeal by the Appellate Authority i.e. Respondent No.3."

2. Learned counsel for the petitioner submits that the matter is squarely covered by the judgment rendered by this Hon'ble Court at Jaipur Bench in ***M/s. Pratap Power Spares Vs. Union of India & Ors. (D.B. Civil Writ Petition No.9882/2024),*** decided on 28.07.2026. The order dated 28.07.2026 reads as under :-

"1. The petitioner herein, inter-alia, seeks a direction commanding respondents to condone the delay of 99 days in filing the appeal against the Order-in-Original dated 28.08.2023 (Annexure-4), passed by the Assistant Commissioner, State Tax, Ward-II, Circle -A, Jaipur, whereby GST demand of Rs.20,67,203/- for Financial Year 2018-2019, was raised on the account of availment of Input Tax Credit by the petitioner. The appeal against the said order was filed on 03.04.2024. However, the Appellate Authority vide order dated 08.04.2024 dismissed the appeal on the ground of limitation as it does not have the power to condone the delay in filing the appeal. Aggrieved by the same petitioner filed this instant writ petition on 31.05.2024.

2. Learned counsel for the petitioner submits that the delay in filing the appeal was neither deliberate nor intentional but was occasioned by compelling and unavoidable circumstances. He contends that the wife of the proprietor of the petitioner firm, Smt. Seema Shekhawat, had been suffering from severe Guillain-Barré Syndrome during the relevant period and was admitted to the ICU of Shalby Hospital in September 2023. She has continued to undergo regular medical treatment thereafter. Owing to her critical medical condition and the consequent personal hardship, the proprietor was unable to effectively attend to the business affairs of the firm or pursue the statutory proceedings within the prescribed time.

2.1 Learned counsel for the petitioner further submits that on account of the aforesaid circumstances, the petitioner could not file a reply to the Show Cause Notice, whereupon the respondent Assistant Commissioner passed the impugned Order dated 28.08.2023, without affording the petitioner an effective opportunity of hearing.

3. In the aforesaid backdrop, we have heard the learned counsels for the parties and perused the record.

4. Learned Counsel for the petitioner, relying on the various Division Bench judgments of this very Court in M/s M R Traders v. UOI1, M/s Molana Construction Company v. Central Goods and Service Tax Department & Ors2, Man Singh Tanwar v. Commissioner, Central goods and Services Tax Department & Ors.3, RPC PSIPL JV Vs. State of Rajasthan & Ors4 and RPC PSIPL JV Vs. State of Rajasthan & Ors5 argues that sufficient cause of delay in filing the appeal due to circumstances beyond control has been shown and thus appeal be directed to be considered on merits after condoning the delay by this Court.

5. Learned counsels for the respondents oppose the above submission and contends that the impugned order has rightly been passed and appeal is now barred by limitation.

6. Having heard, as above, it transpires that while it is true that the Appellate Authority is bound by the statutory provisions of limitation provided under Section 107 of the RGST/CGST Act, 2017, however, considering the reasons wing to which the petitioner could not submit its appeal within the stipulated time, being beyond its control, non-adjudication of appeal on merits would cause grave injury and prejudice to the petitioner.

7. In the judgments cited above, this Court, while allowing the writ petitions, have issued directions to entertain the appeal on merits.

8. In the premise, following the consistent view as already taken by this Court, ibid, we allow the present writ petition to the extent of condoning the delay of 99 days (after granting relaxation of 120 days under Section 107 of CGST Act) in filing of the appeal by the petitioner.

9. Accordingly, the Appellate Authority shall now entertain the appeal of the petitioner and adjudicate the same on merits, provided the same is filed within 30 days of the instant order being uploaded on the website of this Court.

10. Stay petition and all pending application also stand disposed of."

3. Learned counsel for the petitioner has also referred to the judgment rendered by this Hon'ble Court in ***M/s. Kakar Automobiles VS. Union of India & Ors. (D.B. Civil Writ Petition No.13403/2026),*** decided on 13.07.2026.

4. Learned counsel for the respondent has referred to the judgment rendered by this Hon'ble Court in the case of ***Sharwan***

Singh Devda Vs. The Union of India & Ors. (D.B. Civil Writ Petition No.15910/2026); relevant para whereof reads as under :-

> *"28) No doubt, there is no absolute bar to invoke extraordinary jurisdiction in entertaining the writ petition under Article 226/227 of the Constitution of India merely because it has been filed after the expiry of the period prescribed for filing a statutory appeal but not as a matter of course. However, while exercising jurisdiction under Article 226 of the Constitution of India, this Court cannot disregard the statutory scheme of limitation and entertain such writ petitions and condone the delay and remand back the case to appellant authority to decide appeal on merits. The statutory period prescribed for availing the appellate remedy cannot be circumvented by invoking the extraordinary writ jurisdiction of this Court. It is true that in exceptional and extraordinary circumstances, this Court may interfere with the original order notwithstanding the expiry of the period of limitation for filing the statutory appeal, but not as a matter of course. However, interference can be justified only in exceptional circumstances such as where an order has been passed by completely disregarding the principles of natural justice or inherent lack of jurisdiction is clearly established. In the absence of such circumstances, a writ petition cannot ordinarily be entertained so as to defeat the legislative intendment. In the present case, no exceptional circumstance has been demonstrated warranting interference with the order passed by the Proper Officer."*

5. Learned counsel for the petitioner submits that all the judgments are in the same line and even the judgment in *Sharwan Singh Devda* (supra) provides a way out, inasmuch as the Hon'ble Court has noted that there is no absolute bar to invoke extraordinary jurisdiction under Article 226 of the Constitution of India merely because the writ petition has been filed after the expiry of the period prescribed for filing a statutory appeal, though not as a matter of course.

6. Learned counsel for the petitioner further submits that the Court has observed that in exceptional and extraordinary

circumstances, the Court may interfere with the original order, notwithstanding the expiry of the period of limitation for filing the statutory appeal, but not as a matter of course. Learned counsel submits that the present case is not a matter of course because there are medical reasons for the delay, which are well explained in the petition and supported by Annexure-5.

7. This Court finds that while the Appellate Authority is bound by the statutory provisions of limitation under Section 107 of the RGST/CGST Act, 2017, however, considering the medical reasons which resulted in the petitioner not submitting the appeal within the stipulated time, being beyond his control, and also the fact that non-adjudication of the appeal on merits would cause grave injury and prejudice to the petitioner, the delay deserves to be condoned.

8. The present writ petition is accordingly allowed to the extent of condoning the delay of 70/74 days in filing the appeal by the petitioner. The Appellate Authority shall now entertain the appeal of the petitioner and adjudicate the same on merits, provided the same is filed within 30 days of the instant order being uploaded on the website of this Court.

9. All pending applications stand disposed of.

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

60/Sudhir Choudhary