NEUTRAL CITATION
2026:GUJHC:62538-DB

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 12259 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 12260 of 2019

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

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Approved for Reporting	Yes	No
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M/S BHARAT SHIP BREAKERS CORPORATION
Versus
UNION OF INDIA & ANR.

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Appearance:
MR HASIT DAVE(1321) for the Petitioner(s) No. 1
MR ANKIT SHAH(6371) for the Respondent(s) No. 1,2

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 30/09/2026

ORAL JUDGMENT

(PER : HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI)

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1. With the consent of the learned advocates appearing for the respective parties, both the captioned petitions are taken up for final hearing and both the petitions are disposed of, by way of the present common order. Special Civil Application No.12259 of 2019 is treated as lead matter.

2. At the outset, Mr.Hasit Dave, learned advocate appearing for the petitioner and Mr. Ankit Shah, learned Senior Standing Counsel appearing for the respondent – Revenue pointed out that the issue raised in both the captioned writ petitions, is squarely covered as decided in the case of Ravi Plumbing and Construction versus Union of India, 2026 (107) GSTL 28 (Gujarat),

3. By way of present petition, the petitioner herein has challenged the legality and validity of the order dated 18.06.2014 passed by the original adjudicating authority, whereby, the respondent no.2- Additional Commissioner of Customs, imposed a penalty to the tune of Rs.2,00,000/- under Section 125 of the Customs Act, 1962 (for short 'the Act'), i.e. towards redemption fine, and further Rs.5,000/- under Section 112(a) of the Act. The petitioner herein, being aggrieved by the said order, preferred Appeal before the Commissioner (Appeals), belatedly, which came to be dismissed vide order dated 12.02.2016 on the ground of delay, as the Appeal was filed beyond the period of limitation of 30 days.

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4. Being aggrieved by the said order, the petitioner herein preferred Appeal before the Customs Excise and Service Tax Appellate Tribunal (for short 'the CESTAT'), wherein, the CESTAT dismissed the Appeal vide order dated 22.01.2019, stating that it was beyond the powers of the CESTAT to condone the delay. The aforesaid has given rise to the filing of the present petition for the following reliefs:

> *"11. The Petitioner in view of what is stated herein above respectfully prays that:*
>
> *(A) That Your Lordships be pleased to issue a writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ, order or direction quashing and setting aside the order no.159/Addl. Commissioner/2014/Asdated 18.06.2014 passed by the Additional Commissioner of Customs (Preventive) Jamnagar as being without jurisdiction and the subsequent appellate orders passed by the Appellate authorities;*
>
> *(B) Your Lordships be pleased to issue such other and further reliefs as the circumstances of the present case may require."*

5. Mr. Hasit Dave, the learned advocate, at the outset submitted that the issue is covered by the judgment rendered in case of **Ravi Plumbing and Construction (supra)**, wherein, it is settled the legal precedent that the High Court cannot condone delay in filing of Appeal beyond the maximum period of limitation.

6. Mr.Ankit Shah, the learned Senior Standing Counsel, supported the orders passed by the statutory authorities, wherein, the Commissioner (Appeals) and the CESTAT,

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concurrently dismissed the Appeals preferred by the petitioner herein on the ground of limitation, which requires no interference.

7. Considering the settled legal position as laid down in the case of **Ravi Plumbing and Construction (supra)**, it is not in dispute that the petitioner has in paragraph- 5.9 of the petition admitted that the petitioner challenged the order passed by the Additional Commissioner dated 18.06.2014 belatedly before the Commissioner (Appeals), the Appeal having been filed beyond the condonable period of 3 months.

8. In the facts of the present case, it is pertinent to note that the order in original was received on 11.07.2014 and the Appeal was filed on 21.11.2014 i.e. after 4 months; the same being beyond 90 days as provided under the statue to file Appeal as well the extended period of 30 days. Concurrently, the Commissioner (Appeals) and the CESTAT dismissed the petitioner's Appeal on the sole ground of delay and that the statutory authority has no power to condone the delay beyond the statutory period. As held in the aforesaid decision, the High Court cannot disregard the statutory period for redressal of grievance and entertain the writ petition of such party as a matter of course, and doing so would be in teeth of the principle laid down by the Hon'ble Apex Court in the case of Oil and

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Natural Gas Corporation Limited vs. Gujarat Energy Transmission Corporation Limited [2017] 5 SCC 42.

9. At this stage, it is apposite to reproduce of Paragraphs- 8 to 10 of the decision rendered in the case of **Ravi Plumbing and Construction (supra)**, which reads thus:

> *"8. Thus, the Apex Court has held that even if the writ petition is filed after the expiry of maximum prescribed period of limitation, though alternative efficacious remedy is available, the High Court cannot disregard the statutory period for redressal of the grievance and entertain the writ petition of such a party as a matter of course and doing so would be in teeth of principle of dictum underlying the dictum of three Judge's Bench of the Apex Court in the case of Gujarat Energy Transmission Corporation Limited (supra). The Apex Court has further held that, albeit, the High Court has wide powers, but the same does not mean that it would issue a writ which may be inconsistent with the legislative intent regarding the dispensation explicitly prescribed under Section 31 of the Andhra Pradesh Value Added Tax Act, 2005 and if the same is done, it would render the legislative scheme and intention behind the stated provision otiose. Thus, on the same principles as enunciated by the Apex Court, we are not inclined to set aside the order passed by the Appellate Authority and more particularly in wake of unsatisfactory reason assigned by the petitioner for delay.*
>
> *9. We may also refer to the observations of the Apex Court in the case M/s. Singh Enterprise vs. Commissioner of Central Excise, Jamshedpur & Ors., rendered in Appeal (Civil) No.5949 of 2007 decided on 14.12.2007 wherein the Apex Court has refused to accept the reason of belatedly filing of the appeal on the pretext of lack of experience and closure of business.*
>
> *10. Section 107 (4) of the CGST Act grants discretion to the Appellate Authority, to allow additional one month in case he/she is satisfied that the appellant was prevented by "sufficient cause" from presenting the appeal after 90 days, but within a period of 30 days. Thus, the discretion of the Appellate authority ends on the completion of additional 30 days. Such discretion does not extend to powers under Article 226 of the Constitution on India as well. The statute, thus provides additional one month to file the appeal, and all the reasons satisfying the expression "sufficient cause" can be raised by the appellant. Similar expression is found in section 5 of the Limitation Act, 1963, and Section*

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29 of Limitation Act, 1963 which deals with "Savings", which prevents the overriding the provisions of specific statutes that have their own distinct limitation periods. It permits such laws to govern their own timelines while still leveraging the mechanics of the Limitation Act. Thus, when an additional period of 30 days is supplied by the statute over and above the basic period of 90 days, and the same stands exhausted, this Court cannot exercise powers under Article 226 of the Constitution to dilute the intention of the legislature and further extend the limitation by condoning the delay by re-examining the "sufficient cause". The reason assigned by the petitioner that he did not have his login I.d and password and in fact the GST Portal, the mobile number and e-mail did not belong to the present petitioner and the accountant's persons e-mail and phone were added in the GST Portal while taking the GST registration appears to be a lame excuse. We clarify, that even if the appellant had a valid reason and sufficient cause explaining the delay, this Court cannot condone the delay beyond 120 days unless the Appellate authority has fell in error in calculating/mis-understanding the limitation period. The tax payers are supposed to remain vigilant of all the proceedings and have to timely verify the orders on the portal. The taxing statutes operate in very strict time frame, and any relaxation or easing of limitation period will have cascading effect on the functioning of the revenue."

10. For the reasons as referred to herein-above and settled legal position, this Court cannot exercise its jurisdiction under Article-226 of the Constitution of India to condone the delay. Thus, the writ petitions fail and the same are ***dismissed***. Rule discharged.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(VAIBHAVI D. NANAVATI,J)

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