

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.338 of 2023

Sri Sanjib Kumar Pal, Prop. of M/s Sanjib Kumar Paul, Halahali, Kamalpur,
District Dhalai, Tripura-799286.

..... Petitioner(s)

V E R S U S

1. Union of India, represented by the Secretary, Revenue, Ministry of Finance, Govt. of India, North Block, New Delhi-11000.
2. The State of Tripura, represented by the Secretary, Finance Department, Government of Tripura, New Secretariat Complex, P.O. & P.S. NCC, Agartala, District West Tripura, 799010.
3. The Commissioner of Taxes, Kar Bhavan, P.N. Complex, Gurkhabosti, P.O. Kunjaban, P.S. NCC, Agartala, District-West Tripura, Pin-899006.
4. The Additional Commissioner of State Tax, (Appellate Authority), Government of Tripura, Kar Bhawan, P.N. Complex, Gurkhabasti, P.O. Kinjaban, P.S. NCC, Agartala, District-West Tripura, 799006.
5. The Superintendent of State Tax, Charge-Ambassa, District-Dhalai Tripura.

..... Respondent(s)

Along with

WP(C) No.345 of 2023

Sri Sanjib Kumar Pal, Prop. of M/s Sanjib Kumar Paul, Halahali, Kamalpur,
District Dhalai, Tripura-799286.

..... Petitioner(s)

V E R S U S

1. Union of India, represented by the Secretary, Revenue, Ministry of Finance, Govt. of India, North Block, New Delhi-11000.
2. The State of Tripura, represented by the Secretary, Finance Department, Government of Tripura, New Secretariat Complex, P.O. & P.S. NCC, Agartala, District West Tripura, 799010.
3. The Commissioner of Taxes, Kar Bhavan, P.N. Complex, Gurkhabosti, P.O. Kunjaban, P.S. NCC, Agartala, District-West Tripura, Pin-899006.

4. The Additional Commissioner of State Tax, (Appellate Authority), Government of Tripura, Kar Bhawan, P.N. Complex, Gurkhabasti, P.O. Kinjaban, P.S. NCC, Agartala, District-West Tripura, 799006.
5. The Superintendent of State Tax, Charge-Ambassa, District-Dhalai Tripura.

..... Respondent(s)

For Petitioner(s) : Mr. T. K. Deb, Advocate.

For Respondent(s) : Mr. D. Bhattacharya, GA,
Mr. Bidyut Majumder, Deputy SGI,
Mr. K. De, Addl. G.A.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE ARINDAM LODH

_O_R_D_E_R_

01/08/2023

Both WP(C) No.338 of 2023 and WP(C) No.345 of 2023 are being heard together and would be decided by the common order as both the writ petitions raise common grievances.

[2] Heard Mr. T. K. Deb, learned counsel for the petitioner and Mr. D. Bhattacharya, learned Government Advocate together with Mr. Bidyut Majumder, learned Deputy SGI & Mr. K. De, learned Addl. Government Advocate for the respondents.

[3] The bare facts essential for adjudication of these two writ petitions are being narrated hereunder in short:

The appeal [WP(C) No.338 of 2023] preferred by the petitioner herein on 24.03.2023 against the adjudication order dated 03.06.2020 concerning the tax period April, 2018 to March, 2019 has been rejected on grounds of delay by the appellate authority as beyond the stipulated period under Section 107(4) of the Tripura State Goods and Services Tax Act, 2017.

Petitioner had taken medical grounds for the delay apart from COVID-19 related grounds. The appellate authority has dealt with the issue of limitation, also taking into account the extension of limitation granted by the Apex Court in *Suo Motu Writ Petition (C) No.3 of 2020* and dismissed it as being grossly barred by limitation.

The appeal [WP(C) No.345 of 2023] preferred by the petitioner herein on 24.03.2023 against the adjudication order dated 03.06.2020 concerning the tax period July, 2017 to March, 2018 has also been rejected on grounds of delay by the appellate authority as beyond the stipulated period under Section 107(4) of the Tripura State Goods and Services Tax Act, 2017. Petitioner had taken medical grounds to explain the delay apart from COVID-19 related grounds. The appellate authority has in the instant matter also dealt with the issue of limitation, also taking into account the extension of limitation granted by the Apex Court in *Suo Motu Writ Petition (C) No.3 of 2020* and dismissed it as being grossly barred by limitation.

[4] The only issue which emerges from perusal of the pleadings on record and upon hearing of the learned counsel for the parties, is whether the appellate authority committed an error or illegality in rejecting the appeal preferred under Section 107(1) of the Tripura State Goods and Services Tax Act, 2017 on the grounds of delay in preferring the appeal beyond the stipulated period prescribed under Section 107(4) of the Tripura State Goods and Services Tax Act, 2017. As the chronology of facts discloses, the adjudication order for both the tax period is 3rd June, 2020. The appeals were preferred on 24th March, 2023. The period of limitation in preferring any such appeal was extended by virtue of the order passed by the Apex Court in *Suo Moto Writ Petition(C) No.3*

of 2020 on the first occasion on 15th March, 2020 and thereafter, subsequently extended from time to time and lastly extended by order dated 10th January, 2022.

[5] Since the adjudication order was passed on 3rd June, 2020 during the Covid-19 period and the lockdown, any appeal arising therefrom under Section 107(1) of the Tripura State Goods and Services Tax Act, 2017 would have been filed by 28th May, 2022 and not beyond it. The appeals have been preferred on 24th March, 2023 after the delay of almost nine months thereafter. The learned appellate authority vide impugned order dated 02.05.2023 in the respective appeals has also taken into consideration the Covid-19 related grounds and the extension of limitation period as per the order passed by the Apex Court in *Suo Moto Writ Petition (C) No.3 of 2020*. The order of the Apex Court in *Suo Moto Writ Petition (C) No.3 of 2020* extending period of limitation in all such matters including appeal is extracted hereunder:

“5. Taking into consideration the arguments advanced by the learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of MA No.21 of 2022 with the following directions:

5.1. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

5.2. Consequently, the balance period of limitation remaining as on 3.10.2021, if any, shall become available with effect from 1.03.2022.

5.3. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 1-3-2022. In the

event the actual balance period of limitation remaining, with effect from 1-3-2022 is greater than 90 days, that longer period shall apply.

5.4. It is further clarified that the period from 15-3-2020 till 28-2-2022 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29-A of the Arbitration and Conciliation Act, 1996, Section 12-A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.”

[6] The respondents-State have also taken the same plea in their counter affidavit. They also state that apart from the appellate order no other challenge has been made. Therefore, the challenge is confined to the legality and correctness of the appellate order dated 02.05.2023. Since the limitation for filing appeals is prescribed under Section 107(4) of the Tripura State Goods and Services Tax Act, 2017 being a special statute, the same would be governed thereby. Any plea for condonation of delay relying upon the Limitation Act, 1963 beyond the statutory period prescribed under Section 107(4) of the Act of 2017 cannot be accepted.

[7] As such, we do not find any merit in these appeals. Accordingly, the writ petitions are dismissed.

Pending application(s), if any, also stands disposed of.

(ARINDAM LODH), J

(APARESH KUMAR SINGH), CJ