

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C)No.16 of 2025

1. Ramdurlabhpur Tea Company Limited, having its registered office at Ramdurlabhpur Tea Estate, Mayachari, Dhalai, Tripura-799 285.
2. Sri Rakesh Kumar Singh, Age:28, Son of Sri Uma Shankar Singh, being the Director of M/s. Ramdurlabhpur Tea Company Limited, a resident of village:Chandpur, Ballia, Uttar Pradesh-277 211

---Petitioner(s)

Versus

1. The State of Tripura, represented by the Chief Secretary, of Finance Department, having its office at New Secretariat Complex, New Capital Complex, Post Office- Secretariat, Agartala, West Tripura-799 010
2. The Additional Commissioner of State Tax, O/o the Additional Commissioner of State Tax, Pandit Nehru Complex, Gurkhabasti, Agartala, PIN-799 006
3. The Superintendent of State Tax, Ambassa Charge, Dhalai District, having its office at Pandit Nehru Complex, Gurkhabasti, Agartala, PIN-799 006

---- Respondent(s)

For Petitioner(s)	:	Mr. Sovan Mahajan, Adv. Mr. Shamsheer Ansari, Adv.
For Respondent(s)	:	Mr. Kohinoor N Bhattacharya, G.A.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Order

20/02/2024

Heard learned counsel Mr. Sovan Mahajan along with learned counsel Mr. Shamsheer Ansari appearing for the petitioner and learned G.A. Mr. Kohinoor N Bhattacharya appearing for the respondents.

2. The petitioner has preferred this writ petition against the order in appeal passed under Section 107(1) read with sub-Section (4) of the Tripura State Goods and Services Tax Act, 2017 (*hereinafter referred to as the TSGST Act, 2017*) vide order dated 26.11.2024. The appeal was filed on 04.05.2023

against the order in original dated 11.05.2021 covering the tax period July, 2017-March, 2018. The appeal has been dismissed as being barred by limitation as it was filed beyond the prescribed period of three months and the condonable period of further one month as per sub-section (4) of Section 107 of the TSGST Act, 2017.

3. Learned counsel for the petitioner has vehemently submitted that the delay, if any, was not intentional. The matter may be heard on merits.

4. Learned G.A. Mr. Kohinoor N Bhattacharya appearing for the State-respondents has opposed the prayer on the ground that the impugned order in appeal does not suffer from any errors as the appellate authority does not have the power to condone the delay beyond the further period of one month after expiry of the prescribed period of three months in terms of Section 107(1) sub-section (4) thereof.

5. Learned counsel for the petitioner has sought to impress that delay beyond the period of one month can still be condoned by resorting to Section 5 of the Limitation Act. However, he has not been able to show that the provisions of Section 5 of the Limitation Act are applicable to proceedings before quasi judicial authorities.

6. We are of the considered view that when the Special Act has prescribed a definite period of limitation and delay of one month beyond that can only be condoned, there is no basis to make any exception to the legislative intent. Reliance is placed on *Ganesan represented by its Power Agent G. Rukmani Ganesan Vs Commissioner, Tamil Nadu Hindu Religious and*

Charitable Endowments Board and Ors., reported in (2019) 7 SCC 108, para 23, 27, 59, 59.1 to 59.4 are quoted hereunder for proper appreciation of the point in issue herein.

“23. The Limitation Act, 1963 is an Act to consolidate and amend the law for the limitation of suits and other proceedings and for purposes connected therewith. The law of limitation before the enactment of the 1963 Act was governed by the law of limitation under the Limitation Act, 1908. The different provisions of the Limitation Act, 1963 refer to “court”. Section 4 provides where the prescribed period for any suit, appeal or application expires on a day when the court is closed, the suit, appeal or application may be instituted, preferred or made on the day when the court reopens. Similarly, Section 5 provides that any appeal or any application, other than an application under any of the provisions of Order 21 of the Code of Civil Procedure, 1908 may be admitted after the prescribed period, if the appellant or the applicant satisfies the court that he has sufficient cause for not preferring the appeal or making the application within such period. Section 6 refers to institution of a suit or making of an application for the execution of a decree by a minor or insane, or an idiot who may institute the suit or make the application within the same period after the disability has ceased.

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27. Section 29(2) provides that where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of Section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation and the provisions contained in Sections 4 to 21 (inclusive) shall apply only insofar as, and to the extent to which, they are not expressly excluded by such special or local law. Whether prescription of appeal of limitation of any suit or application in any special or local law relates to suit, application or appeal to be filed in court or it may refer to statutory authorities and tribunals also, is the question to be answered. Different special or local laws have been enacted by the legislature covering different subjects, different rights and liabilities, methodology of establishing, determining rights and liabilities and remedies provided therein. Special or local law may also provide remedy by institution of suits, appeals and applications in the courts i.e. civil court and to its normal hierarchy and also create special forum for determining rights and liabilities and provide remedies. Most common example of creating statutory authorities for determining rights, liabilities and remedies are taxing statutes where assessing authorities have been provided for with hierarchy of authorities. The remedy of appeal and revision is also provided in the taxing statutes in which the authorities are different from the normal civil courts. Section 29(2) in reference to different special or local laws came for consideration before this Court in a large number of cases. This Court had occasion to consider the provisions of the Limitation Act, 1963, in reference to different statutes which contain provisions of suits, appeals or applications to the courts/authorities/tribunals. There are series of judgments of this Court holding that provisions of the Limitation Act are directed only when suit, appeal or application are to be filed in a court unless there are express provisions in a special or local law.

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59. The ratio which can be culled from the abovenoted judgments, especially judgments of three-Judge Benches, as noted above, is as follows:

59.1. The suits, appeals and applications referred to in the Limitation Act, 1963 are suits, appeals and applications which are to be filed in a court.

59.2. The suits, appeals and applications referred to in the Limitation Act are not the suits, appeals and applications which are to be filed before a statutory authority like Commissioner under the 1959 Act.

59.3. Operation of Section 29(2) of the Limitation Act is confined to the suits, appeals and applications referred to in a special or local law to be filed in court and not before statutory authorities like Commissioner under the 1959 Act.

59.4. However, special or local law vide statutory scheme can make applicable any provision of the Limitation Act or exclude applicability of any provision of the Limitation Act which can be decided only after looking into the scheme of particular, special or local law.”

Evidently, the scheme of the special statute i.e. TSGST Act does not permit application of the provision of Section 5 of the Limitation Act, 1963 for condonation of delay beyond the period of 1 month as provided under Section 107(4) of the TSGST Act, 2017.

7. We, therefore, do not find any error in the impugned order calling for interference under Article 226 of the Constitution of India.

8. The instant writ petition is accordingly dismissed.

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

(B. PALIT), J

(APARESH KUMAR SINGH), CJ

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