

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM(4318/2026)
In WP(C) 1651/2026
CM(4319/2026)

Kabady Shop

...Petitioner(s)

Through: Mr. Vikas Malik, Advocate &
Mr. Syed Gowhar Manzoor, Advocate

Vs.

State Taxes Department

...Respondent(s)

Through: Ms. Maha Majeed, Assisting Counsel vice
Mr. Mohsin Qadri, Sr. AAG

CORAM:

HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDER (ORAL)

15.07.2026

1. This petition by the Kabadi Shop, filed under Article 226 of the Constitution of India, seeks to set aside an order dated 24th June, 2025 passed by the Appellate Authority (Appeals-II), State Taxes Department, Kashmir Division, Srinagar [“the Appellate Authority”] in an appeal titled “*Kabady Shop Vs. State Taxes Officer Circle Budgam*”, whereby the Appellate Authority has rejected the appeal of the petitioner as barred by limitation.

2. Learned counsel for the petitioner, at the outset, placed reliance upon a Division Bench judgment of this court rendered in WP(C) No. 593/2026 dated 2nd June 2026, titled “*New Kabady shop Vs. State Taxes Department Th. Its Commissioner*”, whereby a Division Bench of this court allowed the writ petition and, in the

exercise of extraordinary jurisdiction vested under Article 226 of the Constitution of India, set aside the similar order passed by the Appellate Authority and condoned a day's delay in filing the appeal.

3. Learned counsel for the petitioner submitted that the instant case is fully covered by the aforesaid judgment, except that in the instant case there is a delay of two days.

4. Having heard learned counsel for the parties and regard being had to the judgment rendered by the Division Bench of this Court in "**New Kabady Shop**" (supra), we are of the considered view that, in the larger interest of justice, the petitioner deserves our indulgence. The delay of two days in preferring the appeal before the Appellate Authority against the demand order dated 05.02.2025 issued by the concerned State Tax Officer deserves to be condoned.

5. It is well settled that the Appellate Authority under the Goods and Services Tax Act, 2017, is not empowered to condone the delay beyond the prescribed period under the statute. Yet, this court, in the exercise of its extraordinary writ jurisdiction vested under Article 226 of the Constitution of India, may come to the rescue of the assessee, where it is found that he was prevented from filing the appeal in time for the reasons beyond his control. As is projected in the present case, the appeal was delayed only by

two days on account of a death in the family and the ailment suffered by the petitioner.

6. Although the reasons pointed out do not come within the purview of the term 'exceptional circumstances', yet the same are considered in light of the fact that the delay is only of two days. We are, therefore, inclined to exercise our extraordinary jurisdiction to condone the delay of two days and allow the matter to be determined by the Appellate Authority on merits.

7. For the foregoing reasons, this writ petition is allowed and the impugned order dated 24th June, 2025, passed by the Appellate Authority is set aside. The Appellate Authority is directed to restore the appeal to its original number and consider the same on merits in accordance with law.

8. Before parting, we deem it appropriate to observe that the indulgence extended in the present case is on account of the peculiar facts and circumstances obtaining herein, particularly the marginal delay of two days, and, therefore, the same shall not be treated as a precedent for seeking condonation of delay in future on the principle of parity.

(Mohd Yousuf Wani)
Judge

(Sanjeev Kumar)
Chief Justice (Acting)

SRINAGAR:

15.07.2026

"MIR ARIF"

- (i) Whether the order is reportable? Yes/No.
- (ii) Whether the order is speaking? Yes/No.