

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3149 OF 2026

PP. Kharpatil Constructions Pvt. Ltd. Petitioner

Versus

Union of India & Ors. ... Respondents

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Mr. Bharat Raichandani a/w Adv. Bhagrati Sahu i/b UBR Legal for the Petitioner.

Mr. Karan Adik a/w Ms. Niyati Mankad and Ms. Manisha Yadav for Respondent Nos.1, 3 and 5.

Ms. Shruti D. Vyas, Addl. G.P. a/w Ms. Nisha Mehra, A.G.P. for Respondent-State.

Mr. Sidharth Chandrasekhar a/w Ms. Sangeeta Yadav for Respondent Nos.4 and 6.

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**CORAM: M.S. KARNIK &
SANDESH D. PATIL, JJ.**

DATED : 7th SEPTEMBER 2026

PC.

1. Heard Mr. Bharat Raichandani, the learned Counsel for the Petitioner and Mr. Karan Adik, the learned Counsel for Respondent Nos.1, 3 and 5.

2. In this petition, it is the grievance of the Petitioner that because the rectification order, against which the Petitioner wanted to prefer an appeal before Appellate Authority, was not uploaded on the

portal, the appeal could not be preferred.

3. Mr. Karan Adik, the learned Counsel for Respondent Nos.1, 3 and 5, has submitted that exercise of the powers conferred by Section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, made the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely, The Central Goods and Services Tax (Second Amendment) Rules, 2023, vide Notification No.38/2023-Central Tax, New Delhi, dated 4th August 2023.

4. As per clause -16 of the Second Amendment Rules, 2023, the following was the amendment :-

16. In the said rules, in rule 108, in sub-rule (1),-

(a) for the words “either electronically or otherwise as may be notified by the Commissioner”, the word “electronically” shall be substituted;

(b) the following proviso shall be inserted, namely :-

“Provided that an appeal to the Appellate Authority may be filed manually in FORM GST APL-01, along with the relevant documents, only if-

(i) the Commissioner has so notified, or

- (ii) the same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the common portal, and in such case, a provisional acknowledgment shall be issued to the appellant immediately.”

5. In such view of the matter, Mr. Adik, submitted that the appeal to the Appellate Authority is permitted to be filed manually along with the relevant documents, if the same cannot be filed electronically due to non-availability of the order to be appealed against, on the common portal.

6. It is the submission of the learned Counsel for the Petitioner that this aspect was never intimated to the Petitioner, though several representations were made by the Petitioner, the Petitioner could not file an appeal in the aforesaid form. The Petitioner submits that against the rectification order, invoking the provisions of clause 16 of the Second Amendment Rules, 2023, the Petitioner would prefer an appeal within a period of four weeks from today.

7. If the appeal is filed within a period of four weeks from today, objection of limitation shall not be raised and that the Appeal shall be decided on its own merits.

8. Keeping all contentions of the parties open, the Petition stands disposed.

(SANDESH D. PATIL, J.)

(M.S. KARNIK, J.)