HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 11991/2026

CNR: RJHC020644882026 | URN: CW / 26506U / 2026

M/s Kalu Ram, Registered Office At B-2/444, Chitrakoot, Vaishali Nagar, Jaipur, 302021 Through Its Proprietor Kalu Ram S/o Banshi Lal Aged About 49 Years R/o Rajeev Colony, Mangra Punjla, Jodhpur - 342001

----Petitioner

Versus

1. State Of Rajasthan, Through Chief Commissioner, State Taxes, Kar Bhawan, Ambedkar Circle, Jaipur
2. Assistant Commissioner, Circle-B, Jaipur - III, Ward - II, State Goods And Services Tax, Bhagwan Das Road, C-Scheme, Jaipur, Rajasthan
3. Appellate Authority - III, State Taxes, Office Of Appellate Authority, Jaipur - III, Kar Bhawan, Jaipur
4. Union Of India, Through Secretary, Department Of Finance, New Delhi - 110001.

----Respondents

For Petitioner(s)	:	Ms. Pratyushi Mehta, Adv.
For Respondent(s)	:	Ms. Mahi Yadav, AAG with Ms. Chelsi Agarwal, AAAG Ms. Apurva Maharishi, Adv. Mr. Khem Chand Sharma, Adv.

HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE ASHUTOSH KUMAR
Order(Oral)

11/08/2026

Per: Arun Monga, J.

1. The petitioner herein, *inter alia*, seeks quashing and setting aside of the impugned Order-in-Original dated 05.12.2023, passed by the Assistant Commissioner, Circle-B, Jaipur-III, and also seeks a direction commanding respondents to condone the delay in filing the appeal against the impugned order-in-original.

1.1 In the present case, there is delay of 645 days in filing the appeal against the Order-in-Original dated 05.12.2023, whereby, proceedings

were initiated under section 74 of the RGST Act due to non-payment of GST on royalty and District Mineral Foundation Trust (DMFT) contributions by the petitioner. The appeal against the said order was filed on 08.01.2026. However, the Appellate Authority vide order dated 20.04.2026 dismissed the appeal on the ground of limitation as it does not have the power to condone the delay in filing the appeal.

2. Learned counsel for the petitioner submits that the delay in filing the appeal occurred due to bona fide circumstances beyond the control of the petitioner. The delay is thus occasioned by genuine and sufficient cause, and not due to any negligence or lack of diligence on the part of the petitioner.

2.1 It was further submitted that since tax amount of Rs. 1,64,221/- remained outstanding and thereby order-in-original dated 05.12.2023 was passed against the petitioner. The petitioner came to know about the order-in-original only when the GST department proceeded to attach the bank account of the petitioner and consequently the bank account was frozen. In the appeal, the petitioner specifically raised the plea that the Order-in-Original had never been served upon him and that limitation could not commence from the date of passing of the order in the absence of valid communication thereof. The petitioner further challenged the legality and validity of the demand on merits, including the levy of GST on royalty and DMFT contributions as well as to waive of the interest and penalty due to non-communication of the order as it was merely uploaded on the GST portal. Accordingly, the delay is *bona fide*, and not attributable to any wilful negligence or malafide intent.

2.2 Owing to these circumstances, the petitioner could not take necessary steps within the prescribed period. The delay was neither

intentional nor due to any negligence. It is, therefore, most respectfully prayed that the delay in filing the appeal be kindly condoned in the interest of justice.

3. In the aforesaid backdrop, we have heard the learned counsels for the parties and perused the record.

4. Learned Counsel for the petitioner, relying on the various Division Bench judgments of this very Court in **M/s M R Traders v. UOI[1], M/s Molana Construction Company v. Central Goods and Service Tax Department & Ors[2], Man Singh Tanwar v. Commissioner, Central goods and Services Tax Department & Ors.[3], RPC PSIPL JV Vs. State of Rajasthan & Ors[4]** and **RPC PSIPL JV Vs. State of Rajasthan & Ors[5]** argues that sufficient cause of delay in filing the appeal due to circumstances beyond control has been shown and thus appeal be directed to be considered on merits after condoning the delay by this Court.

5. Learned counsels for the respondents oppose the above submission and contends that the impugned order has rightly been passed and appeal is now barred by limitation.

6. Having heard, as above, it transpires that while it is true that the Appellate Authority is bound by the statutory provisions of limitation provided under Section 107 of the RGST/CGST Act, 2017, however, considering the reasons owing to which the petitioner could not submit its appeal within the stipulated time, being beyond its control, non-

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1 2026 SCC OnLine RAJ 2115

2 2024 SCC OnLine Raj 3938

3 D.B. CWP 14658/2024

4 D.B. CWP 7260/2025

5 D.B. CWP 11794/2025

adjudication of appeal on merits would cause grave injury and prejudice to the petitioner.

7. In the judgments cited above, this Court, while allowing the writ petitions, have issued directions to entertain the appeal on merits.

8. Aside above, our attention has been gone to a Division Bench Judgment rendered by Punjab and Haryana High Court in case titled as ***Luxmi Traders versus Union Territory of Chandigarh and Ors.***[6], wherein based on elaborate discussion and deliberations thereof, following view has been taken.

> *"60. On the basis of discussions and deliberations aforesaid, we come to the following conclusions:-*
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> *(i) Service of SCN upon the petitioner/assessee concerned cannot be deemed sufficient merely on account of its uploading on the Common Portal, unless its receipt is acknowledged or a reply is filed.*
>
> *(ii) Where SCN is served only by way of uploading it on the Common Portal and in the absence of reply filed by the petitioner/assessee concerned, ex parte order is passed in orginal, the proceedings would stand restored to the stage of issuance of SCN and the petitioner would be at liberty to file reply to the SCN within a period of four weeks from today whereafter, the Department shall proceed further after affording required opportunity of hearing.*
>
> *(iii) In cases where the order-in-original is passed after contest, and is served only by uploading it on the Common Portal, the period of limitation for filing of appeal would not be triggered, and the assessee aggrieved will have the right to file an appeal within a period of four weeks from today.*
>
> *(iv) Where appeals filed against the order-in-original, which was served only by uploading it on the Common Portal are dismissed on the ground of limitation, the order of the Appellate Court shall be set aside and the appeal would stand restored to its original number, and would be heard and decided on merits.*
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> *(v) In cases where SCNs were served only on portal and ex parte adjudication order was passed for want of reply of assessee and appeal against the said order was dismissed on the ground of delay, both adjudication order and order-in-appeal shall be set aside and proceedings will be restored at the stage of issuance of SCN and petitioner/assessee shall be at liberty to file reply to SCN within four weeks from today, whereafter, the department shall proceed further after affording due opportunity of hearing."*

9. Having given out thoughtful consideration to the aforesaid view expressed by the Punjab and Haryana High Court, we are in respectful

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6 (2026:PHHC099329:DB) in CWP No. 27139/2025

agreement therewith and accordingly, see no reason why the benefit be not accorded to the petitioner therein.

10. In the premise, following the consistent view as already taken by this Court, *ibid*, we allow the present writ petition to the extent of condoning the delay in filing of the appeal by the petitioner. However, the appeal shall be decided as expeditiously as possible subject to deposit of 50% of the total outstanding tax amount. If any part amount is already deposited, the same shall be adjusted while calculating the balance of 50%. Subject to deposit of the aforesaid amount, the petitioner is also granted liberty to file an appropriate application before the Appellate Authority for defreezing his bank account, which shall be dealt with in accordance with law.

11. In the premise, the impugned appellate order dated 20.04.2026 is set aside. The Appellate Authority is directed to entertain the appeal of the petitioner and adjudicate the same on merits, as above, provided the appeal is filed within 30 days of the instant order being uploaded on the website of this Court.

12. All pending applications, if any, stand disposed of.

(ASHUTOSH KUMAR),J **(ARUN MONGA),J**

1/Ashwani-Tanisha