

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

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(19) WRIT PETITION NO. 5809 OF 2025

Asics India Pvt. Ltd.

... Petitioner

Versus

Union of India & Ors.

... Respondents

WITH

(20) WRIT PETITION NO. 6567 OF 2025

Asics India Pvt. Ltd.

... Petitioner

Versus

Union of India & Ors.

... Respondents

**Mr. Kashish Gupta a/w Mr. Vaibhav P. Patankar and Ms.
Anchal Gupta i/by Patankar & Associates for Petitioner.**
**Mr. Ram Ochani a/w Ms. Sangeeta Yadav for Respondent
Nos.2 to 5.**
**Ms. Shruti D. Vyas, Addl. G.P. a/w Mr. Aditya R. Deolekar,
AGP for Respondent No.6-State.**

**CORAM : M.S. Sonak &
Jitendra Jain, JJ.**

DATED : 8 July 2025

PC. (Per M.S. SONAK, J.) :-

1. Heard learned counsel for the parties.
2. Learned counsel for the parties state that both these petitions can be disposed of by a common order, since they raise substantially similar issues of fact and law.

3. Rule in both these petitions. Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.

4. In both these petitions, the challenge is to the impugned orders passed in appeal dated 30 August 2024 by which the petitioner's appeals have been dismissed on the ground that they were filed 7/8 days beyond the prescribed period of limitation and further, they were not accompanied by any application seeking condonation of delay.

5. The records show that the Order-In-Original (O-I-O) in both these petitions is dated 13 December 2023. However, the same were electronically uploaded on 20 December 2023. By post these orders were served upon the petitioners on 3 January 2024.

6. The petitioner in Writ Petition No. 5809 of 2025 instituted the appeal on 27 March 2024 and the petitioner in Writ Petition No.6567 of 2025 instituted the appeal on 28 March 2024.

7. Therefore, going by the date of postal communication, the appeals were instituted within the prescribed period of three months provided in Section 107 of the CGST Act, 2017. However, if we are to go by the date of electronic uploading of the O-I-O, there might be a delay of 7/8 days.

8. Learned counsel for the petitioner has submitted that the petitioner, as a matter of abundant caution, had kept ready for filing applications for condonation of delay on the date they were called for personal hearing. They however,

submit that they were informed that the matter could be argued on merits since the O-I-O was served by post only on 3 January 2024. Accordingly, arguments were advanced and heard on the merits of the appeals. However, the impugned orders do not address the merits of the matter, but dismiss the appeals by invoking the bar of limitation and faulting the petitioners for not filing applications seeking condonation of delay of 7/8 days.

9. The petitioners have made the above averments in the petitions which have not been contested.

10. In any event, from the circumstance that the petitioners were heard on merits, we are inclined to accept the petitioner's version. Besides, under Section 107 (4) of the CGST Act, delay of further 1 month beyond the prescribed limitation period of three months is condonable upon showing sufficient cause. In the present case, sufficient cause is writ large because the petitioners went back on the date of the postal communication.

11. Upon cumulative consideration of the facts and circumstances, therefore, we quash the impugned orders and remit the petitioner's appeals for consideration on merits.

12. All contentions of all parties on the merits of the matter are left open to be decided by the appellate authority pursuant to this remand.

13. The rule in these petitions is made absolute to the above extent only without any order for costs.

14. The petitioners to appear before the Appellate Authority on 28 July 2025 at 11:00 a.m. and file an authenticated copy of this order. Based upon the same, the Appellate Authority may fix an appropriate date for hearing of the appeal on merits so that the appeals can be disposed of expeditiously.

15. In Writ Petition No.5809 of 2025, the challenge to Notification dated 31 March 2023 is left open since we have not adjudicated upon the same.

16. All concerned to act on an authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)