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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11642 OF 2025

Yogeshwari Petrochemicals Private Limited ...Petitioner
Versus
The State Of Maharashtra ...Respondent

Mr. Sudyaman A Nargolkar, a/w Adv. S.R. Nargolkar and Adv. Neeta Patil, for Petitioner.
Ms. S.D. Vyas, Addl. G.P, a/w Mr. Aditya R. Deolekar, AGP for State.
Mr. Ashutosh Misra, i/by A.A. Ansari, for Respondent No. 5- Union of India.

CORAM: M.S. Sonak &
Advait M. Sethna, JJ.

DATED: 05 DECEMBER 2025

ORAL ORDER.:- *(Per M. S. Sonak, J)*

1. Heard Mr. Nargolkar, learned counsel for the petitioner and Mr. Deolekar, learned AGP for the State.

2. The petitioner has sought several reliefs in this petition. Still, the main relief is to quash and set aside the impugned appeal rejection order dated 9 May 2025, by which the petitioner's appeal against the assessment order dated 29 April 2024 came to be rejected, as barred by the prescribed period of limitation. The impugned order is at Exhibit 'A-2' (Page 68 of the petition).

3. Accordingly, we issue Rule. The Rule is made returnable forthwith, at the request of and with the Consent of the Learned Counsel for the parties.

4. The impugned order dated 9 May 2025 is in Form GST APL-02, which is mainly concerned with the acknowledgment of the submission of an appeal. Clause 7 of this form deals with "Reason for rejection". In this case, the reason for rejection is stated as follows:-

> *" Other reason – Appeal is late filed i.e. beyond the time limit specified u/s 107 of MGST Act 2017."*

5. Mr. Nargolkar firstly submitted that the order rejecting the petitioner's appeal visits the petitioner with severe civil consequences. He submitted that a minimum compliance with the principles of natural justice and fair play should have preceded such an order. He submits that this was even more necessary in the present case because the petitioner is a senior citizen, and it is the petitioner's case that he got knowledge of this order only on 31 March 2025. The appeal was filed within the limitation period prescribed if construed from this date.

6. Mr. Deolekar states that there is no provision for hearing any party before dismissing an appeal on the ground that it was filed beyond the prescribed period of limitation. He submitted that the appellate authority has no power to condone a delay beyond 120 days. He clarified that the original period for instituting an appeal is 90 days, and there is a further one-month condonable period. However, beyond that, there is no power to condone the delay and therefore, no point would be served by hearing any parties where such an appeal is filed beyond 120 days.

7. Mr. Deolekar's contentions beg the question. The issue here is whether the limitation is to be construed from the date of the order or from the date of knowledge of the order. This is certainly an arguable issue, both on the facts and on the law. Before any decision could have been taken on this issue, the principles of natural justice ought to have been followed.

8. The appellate authority cannot presume that the appeal is delayed solely based on the order dates. Here, it was the petitioner's case that the limitation had to be construed from the date of knowledge. Therefore, this plea could not have been summarily rejected as it has been, without even hearing the petitioner or allowing him an opportunity to make good his case.

9. The fact that the Statute may not specifically contemplate a hearing or an opportunity makes no difference. The principles of natural justice are required to be read into "the Unoccupied interstices of statute" so that a fair hearing and fair opportunity are granted to the parties who are likely to be affected by the outcome. That the principles of natural justice must be read into the 'unoccupied interstices' of the statute unless there is a clear mandate to the contrary was the law laid down in the decisions of the Supreme Court in ***Institute of Chartered Accountants of India Vs. L.K. Ratna &***

Others[1] and in ***S. L. Kapoor vs. Jagmohan & Ors***[2]**.**

10. On the above grounds, we allow this petition, quash and set aside the impugned order dated 9 March 2025, and remand the matter to the appellate authority with directions to hear the petitioner and to decide the issue of the appeal being affected by the bar of limitation only thereafter. This exercise must be completed within three months from the date of uploading of this order.

11. However, we clarify that all contentions of all parties are expressly left open. The fact that we have set aside the impugned order does not mean that we have accepted the petitioner's case about service or date of knowledge. We have set aside the impugned order because we believe that such an order, which adversely affects the interest of the petitioner, should not have been made without allowing the petitioner to put forth his case for being heard in the matter.

12. The Rule is made absolute in the above terms. No costs.

13. All concerned must act on an authenticated copy of this order.

(Advait M. Sethna, J) **(M.S. Sonak, J)**

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[1]. (1986) 4 SCC 537

[2]. (1980) 4 SCC 379