IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

105 **CWP-24192-2025 (O&M)**
Date of decision :28.11.2025

LAXMI METAL AND MACHINES THROUGH ITS PARTNER SH. SATISH KUMAR JOON
... PETITIONER

VERSUS

UNION OF INDIA AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Deepak Manchanda, Advocate (through V.C.) and
Mr. Sandeep Kumar, Advocate
for the petitioner.

Mr. Ajay Kalra, Advocate (through V.C.)
for the respondents.

****

LISA GILL, J. (ORAL)

CM-17748-CWP-2025

Documents Annexure P-12 to P-16 are taken on record, subject to just exceptions.

Application is disposed of accordingly.

Main Case

1. Prayer in this writ petition is for setting-aside of order-in-original dated 24.01.2024 (Annexure P-4) and order in appeal dated 19.06.2025 (Annexure P-7).

2. Petitioner, it is submitted, is a partnership firm engaged in the business of trading in used imported machinery, operating from Rohtak, Haryana,

and registered under the Goods and Services Tax Act, 2017 (for short 'GST Act') bearing GSTIN 06AAHFL0563C1ZQ.

3. Audit under Section 65 of the CGST Act was conducted for the period July 2017 to March 2019, during which the audit team raised an objection regarding non-payment of IGST on ocean freight under RCM, as recorded in Audit Para-1.

4. Petitioner deposited sum of ₹2,94,614/- under protest by filing DRC-03 dated 13.01.2022, even though at that time the issue of ocean-freight RCM was pending before the Hon'ble Supreme Court in ***Union of India v. Mohit Minerals Pvt. Ltd***.

5. On 19.05. 2022, Hon'ble the Supreme Court finally held that Ocean Freight RCM levy is unconstitutional, striking down the notifications imposing such tax.

6. Based on the said judgment, Petitioner filed a refund application in Form RFD-01 on 09.11.2023 seeking refund of the amount paid under protest.

7. Proper Officer rejected the refund claim vide Order-in-Original dated 24.01.2024 (Annexure P-4).

8. Petitioner filed an appeal on 01.06.2024 before the Appellate Authority. It is submitted that Appellate Authority rejected the appeal vide Order-in-Appeal dated 19.06.2025 (Annexure P-7) solely on the ground of alleged delay of one day, without correctly computing limitation under Section 107 of the CGST Act and without providing any opportunity of personal hearing.

9. Learned counsel for the petitioner vehemently argues that Appellate Authority has grossly erred while calculating the period of limitation. Impugned order in original passed on 24.01.2024 was communicated on 01.02.2024. The period of 3 months would thus expire on 01.05.2024. Present petitioner

specifically pleaded before Appellate Authority that appeal could not be filed within the said period of three months as petitioner was out of country at the relevant time and the counsel engaged earlier had not been in communication with the petitioner. Reference is made to specific plea raised in the grounds of appeal filed before the Appellate Authority (Annexure P-5), however, this aspect was not even touched upon by the Appellate Authority and appeal was incorrectly dismissed being time barred. It has incorrectly been held that the last date of filing the appeal could be extended only upto 30.05.2024 whereas appeal was filed on 01.06.2024. Learned counsel for petitioner submits that last day for filing of appeal was 01.06.2024 and the same was admittedly filed on said date. It is, thus, prayed that this writ petition be allowed as prayed for.

10. Learned counsel for the respondent while opposing the writ petition is, however, unable to deny that calculation as made by First Appellate Authority, vide order dated 19.06.2025, is not entirely correct as the date of passing of order has to be excluded while computing the period of limitation.

11. We have heard learned counsel for the parties and have perused the file.

12. Passing of order-in-original on 24.01.2024 (communicated on 01.02.2024); filing of the appeal and its dismissal vide impugned order dated 19.06.2025 is a matter of record. Learned First Appellate Authority while considering the question of limitation has observed as under :-

> *"8. As per the above provisions, I am of opinion that the appellant is required to file appeal within three months of date of communication of the order and this period of three months may be extended for a period of one month only, if the appellant presents satisfactory cause for delay before the appellate authority.*

> *9. In the present case, as per APL 01, the date of communication of the order, is 01.02.2024, therefore, the appellant was required to file the appeal on or before 30.04.2024 in terms of section 107(1) of the CGST Act, 2017. Further, if section 107(4) of the CGST Act is invoked in the instant case then the last date of the filing appeal could be extended till 30.05.2024. However, in the instant appeal is filed on 01.06.2024 with a delay of 1 day which is beyond the permissible limit. Therefore, it is clear that the appeal is filed beyond the limit of three months and further, even beyond the extendable period of one month as laid down in Section 107(4) of the CGST Act, 2017. Hence, I hold that the appeal is liable to be rejected on the sole reason of delayed filing.*"

13. Learned counsel for the petitioner has referred to the airline tickets reflecting the travel of petitioner during the relevant period. It is submitted that he was unable to place on record the entries in his passport because said passport has been surrendered for renewal of the same in the month of August, 2025. Petitioner has thus been able to indicate sufficient cause for not filing the appeal within the period of three months and moreover Appellate Authority has also not disputed the same, but has dismissed the appeal having been filed one day after the period of limitation computed by it while adding the additional one month in terms of Section 107(4) of the Act.

14. It is apparent that First Appellate Authority has erred in holding that appeal has been filed beyond the period of limitation. Order-in-original is dated 24.01.2024 and admittedly communicated on 01.02.2024. The appeal was filed on 01.06.2024. It appears that Appellate Authority accepted the explanation offered by petitioner and thus calculated the period of limitation. Thus, petitioner is held entitled to the extended period of one month in terms of Section 107(4) of the CGST Act, 2017. It is pertinent to note that the day on which the order is

passed/communicated has to be treated as Day Zero (0). We are in agreement with the view expressed by High Court of Delhi in this regard in this ***Parmod Kumar Tomar (Prop. M/s Paramount Vs. Assistant Commissioner Mundka Division Delhi West, Central Goods and Services Tax & Anr***, decided on 26.04.2024. Therefore, in the given factual matrix appeal was filed within the period of limitation i.e. on 01.06.2024.

15. Keeping in view given facts and circumstances, impugned order in appeal dated 19.06.2025 is set-aside and the matter is remanded to the Appellate Authority to decide the same afresh on merits in accordance with law after affording opportunity of hearing to the concerned parties. There is no expression of opinion on merits of the matter.

16. Writ petition is disposed of accordingly.

17. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

(LISA GILL)
JUDGE

(PARMOD GOYAL)
28.11.2025 **JUDGE**
manoj

Whether speaking/reasoned Yes/No
Whether reportable Yes/No