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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 1680/2025

PHELAN ENERGY INDIA PRIVATE LIMITED

.....Petitioner

Through: Appearance not given.

versus

COMMISSIONER OF CGST DELHI CENTRAL GOODS AND SERVICE TAX & ORS.

.....Respondents

Through: Mr. Shubham Tyagi, SSC for CBIC for R-1 to R-3.
Mr. Sameer Vashisht, Mr. K.G. Gopalakrishnan, Mr. Abhinav Sharma and Ms. Avsi Malik, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

O R D E R

% **11.02.2025**

1. The writ petitioner is aggrieved by the order dated 31 December 2024 passed by the Joint Commissioner in terms of which the statutory appeal has come to be dismissed consequent to a failure on the part of the petitioner to formally seek condonation of delay.

2. We find that undisputedly the appeal would fall within the larger period of limitation which stands constructed in terms of Section 107(4) of the Central Goods and Services Tax Act, 2017 [‘**CGST Act**’]. The only issue which thus survives is whether despite the explanation which was proffered in the course of hearing of the appeal, the same was liable to be dismissed solely on the ground that

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the petitioner had not moved a formal application for condonation of delay.

3. While dealing with an identical question, we had in **Urbkra Bearing Pvt. Ltd. vs. Commissioner of Central Goods and Services Tax and Others** [W.P.(C) 8878/2024 decided on 30 January 2025] observed as follows: -

> "3. The Additional Commissioner, however, has alluded to the fact that all orders are communicated electronically on the AIO portal and thus, it would be deemed to have been served on 22 February 2023 itself. The appellate authority, however, has taken the view that the period of limitation would have to be computed from that date and viewed in that light, the appeal would have fallen within the prescribed limitation of 90 days and thus liable to be filed upto 21 May 2023.
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> 4. Insofar as the additional period of one month which the statute provides for the preferment of an appeal is concerned, the Additional Commissioner has merely observed that since no formal application for condonation had been moved, the prayer for condonation, was not liable to be countenanced.
>
> 5. In our considered opinion the Additional Commissioner has clearly taken an extremely narrow and pedantic view since the condonable period of an additional 30 days was one which was clearly applicable and could have been invoked for the purposes of entertaining the appeal and trying the challenge on merits.
>
> 6. In view of the aforesaid, we allow the instant writ petition and quash the Order-in-Appeal of the Additional Commissioner dated 29 December 2023. The appeal shall consequently be accepted as having been filed within the time prescribed under Section 107(4) of the Act.
>
> 7. The appeal as preferred by the writ petitioner shall consequently stand revived on the board of the appellate authority to be heard on merits and decided afresh in accordance with law."

Consequently, and for all the aforesaid reasons, we find ourselves unable to sustain the order impugned.

4. We, consequently, allow the instant writ petition and quash the order dated 31 December 2024. The appeal of the writ petitioner shall consequently stand restored on the board of the appellate authority to

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be decided in accordance with law.

5. All rights and contentions of respective parties on merits are kept open.

YASHWANT VARMA, J

HARISH VAIDYANATHAN SHANKAR, J

FEBRUARY 11, 2025/RW

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