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

\+ **W.P.(C) 6262/2025, CM APPL. 28637/2025 & CM APPL. 28638/2025**

M/S A P MANUFACTURING CO .....Petitioner
Through: Mr. Pritish Sabharwal, Advocate

versus

THE SPECIAL COMMISSIONER I APPELLATE AUTHORITY & ANR. .....Respondents
Through: Ms. Vaishali Gupta, Panel Counsel for GNCTD

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% 13.05.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner- M/s A P Manufacturing Co. under Article 226 and 227 of the Constitution of India, *inter alia*, assailing the order dated 18th July 2024 (hereinafter, '*impugned order*') passed by the Office of the Appellate Authority (Delhi GST)/Special Commissioner-I, Department of Trade and Taxes, Delhi.

3. The case of the Petitioner is that its Goods and Service Tax (hereinafter, '*GST*') registration was sought to be cancelled *vide* Show Cause Notice dated 10th May, 2022 and thereafter was affirmed *vide* the final order dated 5th June, 2022 passed by Sales Tax Officer Class II/AVATO, Ward 62. The cancellation of the GST registration of the Petitioner has been given effect

from 1st July, 2017. The Petitioner did not participate in the proceedings at all and then filed an appeal before the Appellate Authority on 21st May, 2024. The said appeal has been dismissed *vide* the impugned order dated 18th July, 2024 on the ground of being barred by limitation.

4. The limitation for filing an appeal under Section 107 of the Central Goods and Service Tax Act, 2017 is three months which can be further extended by a period of one month. The said period has already expired.

5. The case of the Petitioner is that the Show Cause Notice was not served upon him and no documents, which were found to be the basis of the said Show Cause Notice, have also been served to the Petitioner. Moreover, the cancellation of the GST registration of the Petitioner is also retrospective in nature.

6. Under such circumstances, since the Petitioner did not have an opportunity to even file a reply or participate in the proceedings, the same would be violative of principles of natural justice. This Court on similar facts, in the order dated 16th April 2025 in ***W.P. (C) 4737/2025*** titled ***Ms Blackmelonadvance Technology Company Pvt Ltd V. Commissioner Of State Goods And Services Tax Delhi &Anr.*** directed as under:

> *"10. The Court has heard the parties. Under Section 107 of the Act, the limitation prescribed for challenging an order is three months from the date on which the said decision or order is communicated to the concerned persons.*
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> *11. In the present case, however, a substantial demand has been raised against the Petitioner and for whatever reason, the Petitioner has not had an*

opportunity to either file a reply or to attend a personal hearing. The Petitioner ought to have been a little more cautious with the proceedings. In fact, the address of the Petitioner which is mentioned in the memo of parties is also the old place in Delhi. However, ld. counsel for the Petitioner submits that the Petitioner has now shifted to Noida.

12. Since the grounds for seeking permission to file the appeal against the order was that the Petitioner did not have knowledge of the SCN and the subsequent proceedings arising therefrom, this Court, while exercising jurisdiction under Article 226 of the Constitution of India is of the opinion that an opportunity ought to be afforded to the Petitioner to assail the order on merits.

13. Accordingly, let the Petitioner file an appeal before the Appellate Authority under Section 107 of the Act within a period of 30 days. If the same is filed within 30 days it shall not be dismissed on the ground of being barred by limitation. The adjudication thereon shall take place on merits and in accordance with law."

7. Accordingly, exercising writ jurisdiction under Article 226 of the Constitution of India, the Petitioner's appeal is directed to be heard on merits, subject to payment of Rs.20,000/- as costs with the Department of Trade & Taxes, Government of National Capital Territory of Delhi.

8. The proof of costs shall be placed before the Appellate Authority and the appeal shall be restored to its original number. The appeal shall be heard by the Appellate Authority on merits in accordance with law.

9. The Petitioner shall appear before the Appellate Authority on 7th July,

2025.

10. The rights and contentions of both parties are left open.

11. The petition is disposed of. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 13, 2025/SV/ck