07.01.2026
Sl. 20
Ct. 551
(Samar)

WPA 26981 of 2025

M/s Key Business Consultants
Private Limited & Anr.
Vs.
Union of India & ors.

Mr. Akshay Ringasia,
Mr. Subhamoy Patra,
....for the petitioner.
Mr. Udag Sankar Bhattacharya
Mr. Anurag Roy
....for the respondent CGST.

1. Affidavit of service as filed today on behalf of the petitioner is taken on record.
2. This writ petition is directed against an order dated July 29, 2025 passed by the appellate authority under Section 107 of the WBGST Act, 2017/CGST Act, 2017 (hereinafter referred to as the 'said Act of 2017') whereby the petitioner's appeal against the order dated February 19, 2020 has been dismissed on the ground of delay.
3. Learned advocate appearing for the petitioners submits that initially the order dated April 23, 2020 whereby the petitioners' request for refund had been rejected in part had been challenged before the appellate authority by filing an appeal on September 14, 2020.
4. Such appeal was dismissed by an order dated March 26, 2021 on the ground of delay. It is

submitted that the appellate authority could not have dismissed petitioners' appeal on the ground of delay inasmuch as at the time when the petitioners had lodged their appeal before the appellate authority, the statutory period for filing appeals had been extended by orders passed by the Hon'ble Supreme Court in view of the Covid- 19 pandemic.

5. It is submitted that subsequently, an amnesty Scheme was floated vide notification dated November 02, 2023 issued by the Central Board of Indirect Taxes and Customs (hereafter "CBIC") whereby it was clarified that taxable persons, whose appeals had been dismissed solely on the ground that the said appeals had not been filed within the time period specified in Section 107 of the said Act, 2017, would be entitled to file appeal before the appellate authority on or before January 31, 2024.

6. On the strength of the said notification, the petitioner's filed their appeal before the appellate authority on January 3, 2024. By the appellate order impugned herein, the said appeal has also been dismissed on the ground that the appeal has been filed *"with a delay of more than 3(three) years and 5 months from the prescribed period of three months from the date of communication of the impugned order to the appellant"*.

7. Mr. Bhattacharya, learned advocate appearing for the respondent CGST Authorities submits that the petitioner's appeal has been rejected inasmuch as the same was not in form.
8. Heard the learned advocates appearing for the respective parties and considered the material on record.
9. It is evident that the petitioner has filed the appeal (which has been dismissed by the order impugned) within the time specified by and in terms of the notification dated November 2, 2023 whereby taxable persons whose appeals had been rejected solely on the ground of the same being filed beyond the period of limitation prescribed in Section 107 of the said Act of 2017 had been granted option of filing appeal again under Section 107 of the said Act, 2017 on or before January 31, 2024.
10. The appellate authority has however, dismissed the petitioners' appeal, again only on the ground of the same having been filed beyond the period of limitation prescribed in the said Act of 2017 and not on the ground that the appeal was not in form as contended by Mr. Bhattacharya.
11. Once the CBIC notification dated November 2, 2023 granted an option to all persons (whose appeals had suffered rejection on the ground of limitation as aforesaid) to file fresh appeals, and the

petitioners lodged their appeal accordingly, appellate authority could not have rejected the petitioners' appeal that had been filed in terms of the said Circular citing the bar of limitation in terms of Section 107 of the said Act of 2017 as the ground for such rejection.

12. Since the appellate authority has evidently not applied its mind to the matter in the light of the said CBIC notification dated November 2, 2023 which permitted persons whose appeals had been dismissed solely on the ground of the same not being filed within the prescribed period of limitation under Section 107 of the said Act of 2017, the appellate order impugned cannot be sustained.

13. Accordingly, the order dated July 29, 2025 is set aside and the appeal is restored to the file of the appellate authority for being considered afresh.

14. WPA 26981 of 2025 stands disposed of with the above observations. There shall be no order as to costs.

15. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)