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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12273 OF 2026

Elster Metering Private Limited
having its address at Plot No.2/3,
DTA Block B/B1, GAT-181, Village Fulgaon,
Taluka-Haveli, Pune-412 216. … Petitioner

Versus

1. The State of Maharashtra
   Through Government Pleader,
   Appellate Side, High Court of Bombay.

2. The Deputy Commissioner of State Tax
   (PUN-NOD-E-0601), having his address as
   Cabin No. 213, Airport Road, Yerwada,
   Pune-411 006.

3. The Joint Commissioner of State Tax
   (PUN-APP-F-004), having his office as
   New Building, Ground Floor, D-Wing,
   Cabin No.024, GST Bhavan, Near Golf Club,
   Airport Road, Yerwada, Pune – 411 006.

4. The Commissioner of State Tax, Maharashtra
   having his address as 8th Floor, GST Bhavan,
   Nesbit Road, Mazgaon, Mumbai-400 010.

5. The Union of India
   Through the Secretary, Department of
   Revenue, Ministry of Finance, Marine Lines,
   Mumbai. ... Respondents

Mr. Aditya Surte for the Petitioner.
Ms. Shruti D. Vyas, Addl Govt Pleader a/w Mr. A. R. Deolekar, AGP for the Respondent-State.
Mr. Karan Adik (through VC) for Respondent No.4.

CORAM : M. S. KARNIK AND
SANDESH D. PATIL, JJ.
DATED : 12th OCTOBER, 2026.

ORDER (PER M. S. KARNIK, J.)

1. The challenge in this petition is to the adjudication order dated 29th August, 2024 passed by respondent No.2-the Deputy Commissioner of State Tax, under Section 73 (9) of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 ('CGST/MGST Act' for short). The challenge is also to the appellate order dated 24th April, 2025, which was filed along with an application for condonation of delay.

2. Learned counsel for the petitioner submits that the adjudication order was passed without any hearing under Section 75(4) and rejects the reply in one line for want of documents while reproducing the same reply, which records that they were enclosed. The appellate order rejects the appeal as time-barred without

touching the merits and without dealing with the petitioner's contention on communication of the order.

3. Facts of the case in brief are that the petitioner company is engaged in the manufacture of metering, flow measurement and control equipment, including systems focused on gas. On 13th March, 2024, respondent No. 2 informed the petitioner by email of a discrepancy concerning the Invoice dated 23rd August, 2019, relating to the supply of 6,288 gas meters to Mahanagar Gas Ltd., Thane, having a value of approximately Rs. 60,65,782/-. There was a discrepancy between the output tax liability declared in GSTR-1 and the tax liability reflected from e-way bill data.

4. The Petitioner furnished explanations by email on 21st March, 2024 and 22nd March, 2024, along with copies of the invoice and e-way bills that the goods were transported in two vehicles and therefore two e-way bills were generated for a single supply since the entire invoice value was entered in both e-way bills, instead of splitting the value between them.

5. On 2nd April, 2024, respondent No. 2 issued a notice under Section 61 of the CGST Act and the MGST Act in Form GST ASMT-10 concerning the same discrepancy. The petitioner replied on

5th May, 2024, reiterating its explanation and enclosing the relevant documents.

6. Respondent No. 2 issued an intimation of tax ascertained as payable under Section 73 (5) in Form GST DRC-01A on 15th May, 2024 for the very same difference between the output tax liability reported in FORM FSTR-1 and the e-way bill portal data. The respondent also advised payment of the tax ascertained, along with applicable interest by 30th May, 2024, failing which a show-cause notice would be issued under section 73(1) of the CGST Act.

7. On 31st May, 2024, a Show Cause Notice ('SCN' for short) under Section 73(1) was issued for the very same issue. It was again mentioned that the petitioner did not furnish their reply on the BO Portal to the said notice. The petitioner yet again filed its reply in Form GST DRC-06 on 1st July, 2024, again producing the invoice, e-way bills and earlier correspondence. The petitioner also enclosed replies so filed earlier with the reply to the SCN.

8. It is the petitioner's contention that despite the above, on 29th August, 2024, respondent No. 2 passed the impugned adjudication order confirming the demand, interest and penalty without granting a personal hearing or confirming the liability of tax

as per the SCN along with interest up to the date of the order and penalty.

9. The learned counsel submitted that the reply dated 1st July, 2024 was reproduced in the impugned adjudication order while concluding that the contention of the petitioner cannot be accepted since it had not submitted any supporting documents.

10. The impugned adjudication order was also allegedly uploaded under the "Additional Notices and Orders" section of the GST portal, instead of the "View Notices and Orders" section. The petitioner claims that it became aware of the order only in February, 2025.

11. The petitioner thereafter filed an appeal on 25th February, 2025, accompanied by an application for condonation of delay. On 24th April, 2025, respondent No. 3-Appellate Authority rejected the appeal as barred by limitation and did not examine the merits.

12. Learned counsel for the respondents vehemently opposed the petition. It is submitted that there is no reason to interfere with the order passed by the adjudicating authority or the appellate order. It is submitted that the order has been passed in compliance with the principles of natural justice. It is further submitted that the

petitioner has a remedy to approach the GST Tribunal and therefore this writ petition should not be entertained.

13. We have heard learned counsel for the parties. One of the preliminary objections raised is that the petitioner must approach the GST Appellate Tribunal. We are inclined to entertain the present petition as it is the contention of the petitioner that the order of the adjudicating authority as well as the appellate authority is passed in breach of the principles of natural justice. The Hon'ble Supreme Court in Godrej Sara Lee Ltd. Vs. Asstt. Commissioner (AA), 2009 (236) E.L.T. 425 (S.C.) has clearly laid down the principles as to when the existence of an alternative remedy would not be a bar to exercising the jurisdiction of this Court under Article 226 of the Constitution of India. Bearing the principles in mind, we proceed to consider the submissions of learned counsel. A perusal of the appellate authority's order would reveal that the application for condonation of delay is dismissed on the ground that the sufficient reasons/cause for delayed appeal submitted by the appellant are not found to be sufficient and reasonable. The appellate authority held that the notices/DRC-07 order is properly served on the portal. The appellate authority observed that the appellant has filed returns on

the same portal and paid taxes regularly. It shows that the appellant was well aware of the portal details. Further, it is held that the digital order is served properly on B.O. and its service is as per the provisions. It is for all these reasons that the appellate authority found that the appeal is not maintainable and fit for rejection as filed beyond the statutory limit without proper and sufficient reasons.

14. The petitioner relies upon the decision of this Court in T. S. Lines India Pvt. Ltd. Vs. State of Maharashtra, (2024) 15 Centax 273 (Bom.). This Court held that the assessee was not aware of the order issued under Section 73 of the CGST Act, being not available in the "View order and notice" section on the portal, and nor was the same communicated by e-mail, instead the order and notice were uploaded on the "Additional notices and order section". Since the assessee was not heard and was not given any opportunity to reply to notice, impugned order was quashed and set aside.

15. The fact situation in the present case is very much the same. The order passed by the adjudicating authority was uploaded under "Additional notices and order section", and there was no communication as was required under Section 107 (1) of the CGST Act.

16. Sub-section 1 of Section 107 of the CGST Act and MGST Act prescribed a period of three months “from the date of such decision communicated to such person”. The Hon’ble Supreme Court in Harikisan Vs. The State of Maharashtra, 1962 AIR 911 interpreted communication to mean the imparting of sufficient knowledge to the person affected so as to enable him to make an effective representation, and that the same principle has been applied in the context of limitation for seeking a statutory remedy in Raja Harish Chandra Raj Singh Vs. Deputy Land Acquisition Officer, AIR 1961 SC 1500 and Collector of Central Excise Vs. M. M. Rubber and Co. 1992 Supp (1) SCC 471 wherein it is held that the knowledge of the party affected by a decision, either actual or constructive, is an essential element which must be satisfied before the decision can be said to be binding upon him for the purpose of computing the period of limitation to challenge.

17. We find that the adjudication order was uploaded by respondent No.2 not under the “View Notices and Orders” section of the petitioner’s account on the common portal, where notices and orders are required to be placed and where a registered person would look for them, but under the “Additional Notices and Orders”

section. This Court in T. S. Lines India Pvt. Ltd. Vs. State of Maharashtra (supra) has held under :-

> "12. We are therefore of the view that no mistake can be attributed to the petitioner for not having noticed the Notice or the Order on the portal. It is clear that all orders and notices were required to be placed in the "View Notices and Orders" window/portal. It also appears to be quite clear from the perusal of the record that the petitioner was not heard. It had no opportunity to reply to the show cause notice."

18. Respondent No.3 proceeded upon the premise that "the digital order is served properly on B.O. and it is service as per provision" and that because the petitioner had filed returns and paid taxes on the same portal, "it shows that the petitioner was well aware about portal details". In our view, the reasoning conflates the periodical filing of returns with knowledge of an order placed under a tab in which orders were not required to be placed, and it proceeds upon service in the abstract rather than upon communication, which is what section 107(1) requires. Further, the order passed by the appellate authority does not disclose any reason for holding the cause shown by the petitioner to be insufficient. In the application for condonation of delay, the cause was mentioned. However, the same was not discussed at all.

19. The Hon'ble Supreme Court, in Tecnimont Private Limited Vs. State of Punjab, 2019 (29) G.S.T.L. 737 (S.C.), held that while the appellate authority may not have the power to extend limitation, the power of the High Court under Article 226 is not thereby curtailed.

20. It is the contention of the petitioner that the impugned adjudication order is *non est* in law and in any case calls for interference on the various grounds mentioned in the petition. *Prima-facie*, we are expressing no opinion so far as the merits of the challenge to the adjudicating order are concerned, either on the breach of the principles of natural justice or otherwise since the petitioner has filed an appeal before the appellate authority. We are only considering the challenge to the order of the appellate authority whereby the appeal is dismissed on the ground of limitation.

21. We therefore allow the petition in terms of prayer clause (f) of the petition which reads thus:-

> "(f) Without prejudice to and in the alternative to prayers (a) to (e) above, this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or direction in the nature of Mandamus under Article 226 of the Constitution of

India, condoning the delay in the filing of the petitioner's appeal in FORM GST APL-01 dated 25/02/2025 (Exhibit "I") and directing Respondent No.3 to revive the said appeal and to decide the same on merits by a reasoned and speaking order, after affording the petitioner an opportunity of personal hearing".

22. The order passed by the appellate authority is quashed and set aside.

23. The petitioner to appear before the appellate authority on 21st October, 2026 at 11.00 a.m. along with a copy of this Order.

24. The appellate authority is requested to decide the appeal expeditiously.

(SANDESH D. PATIL, J.) (M. S. KARNIK, J.)