$~42 (14.04.2026)

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

\+ W.P.(C) 7740/2025 & CM APPL. 34319/2025

RAJASTHAN TOURISM DEVELOPMENT CORPORATION LTD .....Petitioner

Through: Mr. Shafiq Khan Advocate.

versus

COMMISSIONER APPEALS 1 CGST NEW DELHI & ANR. .....Respondents

Through: Mr. Vishal Chadha, Senior Standing Counsel along with Mr. Chandan Kumar, Advocate.

CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AJAY DIGPAUL

O R D E R

% 15.04.2026

[File taken up today in view of Notification No. 71/G-4/Genl.-I/DHC dated 10.04.2026, wherein the matters listed on 14th April, 2026 were directed to be taken up for hearing on 15th April, 2026.]

1. The petitioner, a State Government undertaking of the State of Rajasthan registered under the Companies Act, 1956, has filed the present petition impugning the Order-in-Appeal dated 27th March, 2025, whereby the petitioner's appeal against the Order-in-Original dated 4th April, 2024 was questioned.

2. The case of the petitioner is that the Order-in-Original dated 4th April, 2024 was actually received by it only on 10th October, 2024 and, therefore,

the appeal filed thereafter was within time. According to them, the appellate authority has failed to consider the aforesaid fact that even though, from the record it is shown that the Order-in-Original dated 4th April, 2024 was dispatched and there is no material to establish the delivery of such order upon the petitioner. According to them, the petitioner, State Government Company has nothing prejudicial against the respondent to claim that the order was never served or received by them.

3. As against above, it is the case of the respondent that the Order-in-Original was dispatched on 9th April, 2024 through Speed-Post and since then no acknowledgment or the postal packet was received back. There has to be a presumption under the General Clauses Act as regards the service of the postal item. That being so, it is claimed that the limitation starts running from 9th April, 2024.

4. The fact remains that the limitation shall run from the date the petitioner has knowledge of the order impugned. It is not in dispute that the remedy of appeal is taken recourse to by the petitioner, by considering that the copy of the order was received in October, 2024.

5. We are unable to accept the respondent's contention that mere postal registration evidencing dispatch of the Order-in-Original dated 4th April, 2024 by Speed Post is sufficient to conclude that the said order was effectively served upon the petitioner.

6. Drawing support from Section 37(C) of the Central Excise Act, 1944, this court is of the considered opinion that, in the absence of any categorical material showing actual service through Speed Post, and in the absence of any acknowledgment evidencing delivery, it cannot be held that the Order-in-Original was duly served on the petitioner.

7. In such an eventuality, we are unable to hold that the petitioner, a State Government undertaking and "State" within the meaning of Article 12 of the Constitution, can be deemed to have been duly served with the Order-in-Original merely because the same is stated to have been dispatched on 9th April, 2024, so as to warrant the inference that limitation would commence from the date of such dispatch.

8. Rather, once the appeal is filed by the respondent by inferring that the same was received in October, 2024, the same needs to be accepted in the factual matrix of the case and particularly having regard to the status of the petitioner as a statutory corporation/company.

9. The impugned Order-in-Appeal dated 27th March, 2025, is hereby, quashed and set aside thereby holding that the appeal of the petitioner is within limitation. We direct the appeal of the petitioner be decided on its own merit.

10. The present petition, along with pending applications, if any, stands allowed in the above terms.

NITIN WASUDEO SAMBRE, J

AJAY DIGPAUL, J

APRIL 15, 2026
Sk/yr