IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 1116 of 2025
With
R/SPECIAL CIVIL APPLICATION NO. 1117 of 2025
With
R/SPECIAL CIVIL APPLICATION NO. 1119 of 2025
With
R/SPECIAL CIVIL APPLICATION NO. 1128 of 2025
With
R/SPECIAL CIVIL APPLICATION NO. 1129 of 2025
With
R/SPECIAL CIVIL APPLICATION NO. 1147 of 2025
With
R/SPECIAL CIVIL APPLICATION NO. 1148 of 2025
With
R/SPECIAL CIVIL APPLICATION NO. 1169 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA Sd/-
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI Sd/-

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Approved for Reporting	Yes	No
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KANAN INTERNATIONAL PVT. LTD. & ANR.
Versus
UNION OF INDIA & ORS.

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Appearance:
MR UCHIT N SHETH(7336) for the Petitioner(s) No. 1,2
MR DEEPAK N KHANCHANDANI(7781) for the Respondent(s) No. 1
MR PARTH PATEL, AGP for the Respondent(s) No. 2,3,4
MR UTKARSH R SHARMA(6157) for the Respondent(s) No. 3,4

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 13/08/2026
COMMON ORAL JUDGMENT

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. Since a common issue is involved in the present group of petitions, Special Civil Application No. 1116 of 2025 is taken up as the lead matter, and the present group of petitions is decided by this common judgment and order.

2. ***Rule***. Learned advocates appear and waive service of notice on behalf of the respective respondents.

3. The petitioners have prayed for quashing and setting aside the order dated 31.05.2024 passed by the Appellate Authority, whereby the appeal filed by the petitioners came to be rejected on the ground of limitation.

4. Learned advocate Mr. Uchit N. Sheth, appearing for the petitioners, has submitted that the petitioners has initially filed a refund application, which has been rejected by the Adjudicating Authority on 16.12.2019 in Form GST RFD-06. Against the said order, the petitioners filed an appeal before the Appellate Authority. The appeal was allowed by the Appellate Authority on 08.10.2020, observing that the order rejecting the refund claim had been passed without granting an opportunity of hearing. The matter was accordingly remitted to the Adjudicating Authority for fresh adjudication. It is submitted that pursuant to the remand, the Adjudicating Authority issued a fresh notice on 12.09.2022. The petitioners filed a detailed reply to the said notice. Thereafter, the Adjudicating Authority, by order dated 03.10.2022, rejected the refund claim.

5. It is the case of the petitioners that since the contentions raised by them were not fully considered, they filed a

rectification application under Section 161 of the Central / Gujarat Goods and Services Tax Act, 2017 (for short, “the GST Act”) before the Adjudicating Authority on 02.01.2023, which was within the prescribed period of limitation. The Adjudicating Authority rejected the said rectification application on 14.09.2023.

6. The petitioners thereafter filed an appeal before the Appellate Authority on 11.01.2024, challenging both the original order rejecting the refund claim dated 03.10.2022 and the order rejecting the rectification application dated 14.09.2023. The said appeal came to be rejected by the Appellate Authority by the impugned order dated 31.05.2024, solely on the ground of limitation.

7. Learned advocate Mr.Sheth, appearing for the petitioners, while placing reliance upon the judgment dated 29.01.2026 passed in Special Civil Application No.9540 of 2025 on an analogous issue, has submitted that the Appellate Authority erred in rejecting the appeal on the ground of limitation. It is submitted that the period of limitation was required to be computed from the date of the order rejecting the rectification application i.e. 14.09.2023. It is urged that the impugned order passed by the Appellate Authority may be quashed and set aside and the matter may be remanded for consideration on merits.

8. Opposing the present petition, learned Senior Standing Counsel Mr.Utkarsh Sharma has submitted that the impugned order does not warrant any interference, as the same has been

appropriately passed by the Appellate Authority. He has submitted that the period of limitation is required to be calculated from the date of the original order passed by the Adjudicating Authority i.e. 03.10.2022.

9. We have heard the learned counsel appearing for the respective parties.

10. The facts recorded hereinabove regarding the filing of the refund application and the subsequent orders are not in dispute.

11. The petitioners, being aggrieved by the order dated 03.10.2022 passed by the Adjudicating Authority rejecting the refund claim, filed a rectification application under Section 161 of the GST Act on 02.01.2023.

12. It is not in dispute that the said rectification application was filed within the prescribed statutory period of 90 days. The Adjudicating Authority rejected the rectification application on 14.09.2023 by a detailed and reasoned order. Against the original order dated 03.10.2022 and the order dated 14.09.2023, the petitioners filed an appeal on 11.01.2024. However, the Appellate Authority, by the impugned order dated 31.05.2024, rejected the appeal on the ground that it was barred by limitation, observing that the Appellate Authority had no power to condone the delay beyond the period prescribed under Section 107(4) of the GST Act.

13. The Appellate Authority, while examining the appeal, computed the period of limitation from the date of the original

order dated 03.10.2022 passed by the Adjudicating Authority. It is not in dispute that, while filing the appeal, the petitioners has brought on record all the relevant facts concerning the original proceedings, the remand, the subsequent order dated 03.10.2022, the filing of the rectification application and its rejection by order dated 14.09.2023.

14. At this stage, we may incorporate the observations made by this Court in the judgment dated 29.01.2026 passed in Special Civil Application No.9540 of 2025 on an analogous issue, which read as under:

> *"6. The facts which are established from the pleadings are that against the order dated 12.08.2024 passed by the respondent, the petitioner filed rectification application on 05.11.2024 under the provision of Section 161 of the Act. The said application was required to be decided within the statutory limit of three months, however, it is not in dispute that the said rectification application has been decided on 19.03.2025. The petitioner thereafter filed an appeal under the provision of Section 107 of the Act before the appellate authority challenging the original order dated 12.08.2024 on 25.03.2025. In Form GST APL-01, the petitioner under the item nos. 16 and 17, in such form has explained the period of delay by pointing out that the rectification order was made on 05.11.2024 which was rejected on 19.03.2025 (incorrectly typed as13.03.2025). So applicable time limit for filing delay start from 20.03.2025 (incorrectly typed as 14.03.2024) and hence, the appeal is in time. Thus, the petitioner had explained the delay and has categorically made a positive statement that appeal was within the period of limitation by mentioning that his rectification application was filed on 05.11.2024 against the order dated 12.08.2024, and the same is decided on 19.03.2025. However, the appellate authority thereafter has rejected the appeal vide order dated 25.03.2025 on the ground of delay. It is mentioned that since the appeal is beyond the statutory limits of three months plus one month i.e. beyond the period of 120 days, the appeal having been time barred, is rejected as the appellate authority does not have power to condone the delay.*

> *7. It is true that the appellate authority does have any power for condoning the delay if the appeal is filed beyond the statutory period of 120 days and this Court also in catena of decisions has also held that the High Court while exercising powers under Article 226 of the Constitution of India cannot condone the delay , if it is beyond the period of 120 days. However, in the present case, the limitation would start running from 20.03.2025 on the rejection of the rectification application filed by the petitioner since it is rejected on 19.03.2025. The petitioner within a period of one week i.e. on 25.03.2025 has filed an appeal challenging the order dated 12.08.2024. Thus, the appellate authority was required to examine the details filled in by the petitioner in Form GST APL-01 before rejecting the appeal on the ground of delay. The filing and disposal of the rectification application against the order dated 12.08.2024 was a vital aspect which would directly impact on the calculation of the limitation period provided under Section 107 of the Act."*

15. Thus, the Appellate Authority was required to examine the appeal filed by the petitioners and decide the same on merits, instead of rejecting it on the ground of limitation by computing the period of limitation from the date of the original order dated 03.10.2022. Since the rectification application under Section 161 of the GST Act was filed on 02.01.2023 within the prescribed statutory period of 90 days, the Appellate Authority was required to consider the period of limitation from the date of the order deciding the rectification application, i.e. 14.09.2023.

16. Accordingly, if the appeal was found to be barred by limitation even when the period was computed from 14.09.2023, the Appellate Authority would be entitled to reject the same on that ground. However, it would not be permissible to reject the appeal on the ground of limitation by computing the period from the original adjudication order, when a

rectification application under Section 161 of the GST Act has been filed within the prescribed period and has been duly considered and decided by the Adjudicating Authority by a reasoned order, and the appeal against such order had thereafter been filed within the prescribed period calculated from the date of the rectification order.

17. Consequently, the present group of petitions ***succeed***. The impugned order(s) passed by the Appellate Authority are hereby quashed and set aside. The matters are remanded to the Appellate Authority (Respondent No.3), which shall decide the appeal(s) filed by the petitioners afresh on merits and in accordance with law, after affording an opportunity of hearing to the petitioners, within a period of 12 (twelve) weeks from the date of receipt of this judgment. Rule is made absolute.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(VAIBHAVI D. NANAVATI,J)

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