

[2024] 158 taxmann.com 688 (Andhra Pradesh)/[2024] 82 GSTL 172 (Andhra Pradesh)/[2024] 102 GST 287 (Andhra Pradesh)[07-08-2023]

**GST : Where assessee suffered from several health issues and, hence, failed to file appeal against order of revenue authority in time; taking into consideration medical prescriptions and fact of involvement of substantial tax amount, delay was to be condoned subject to depositing 20 per cent of disputed tax**

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[2024] 158 taxmann.com 688 (Andhra Pradesh)

**HIGH COURT OF ANDHRA PRADESH**

**JBR Construction (P.) Ltd.**

**v.**

**Union of India\***

U. DURGA PRASAD RAO AND SMT. VENKATA JYOTHIRMAI PRATAPA, JJ.

W.P.NO.11546 OF 2023

AUGUST 7, 2023

**Appellate authority - Appeals to - Limitation period - Condonation of delay - Period July, 2017 to March, 2020 - Assessee failed to file appeal against adjudication order raising demand within prescribed time limit of three months - There was delay of 65 days which was claimed to be due to several health issues - Assessee had filed medical prescriptions - HELD : Considering assessee's health issues substantiated by medical prescriptions and substantial tax amount involved, assessee was to be granted one week to prefer appeal subject to depositing 20 per cent of disputed tax [Section [107](#) of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017] [Paras 7, 8 and 9] [In favour of assessee]**

## **ORDER**

**Smt. Venkata Jyothirmmai Pratapa, J.** - Petitioner seeks Writ of Mandamus to declare the Order passed by the respondent No.4 dated 19-10-2022 as unconstitutional without jurisdiction, arbitrary and consequently, to condone delay of 65 days in preferring the appeal before the respondent No. 3 under section 107 of the C.G.S.T Act, 2017.

**2.** Heard Sri P.A. Seshu, learned counsel for the petitioner, and Sri B.V.S. Chalapathi Rao, learned Senior Standing Counsel for C.B.I.C for the respondents.

**3.** Petitioner is a private limited company, essentially engaged in providing Works Contract Service. Letters were issued by the revenue requesting the petitioner to explain the reasons for the discrepancies noted relating to the payment of the GST for the period from July, 2017 to March, 2020. In response, petitioner explained the detailed reasons for the mismatch. Respondent No.4 issued a show cause notice proposing demand of tax to a tune of Rs. 1,33,19,137/- along with interest and penalty. Petitioner filed a detailed reply to the show cause notice. Consequently, respondent No. 4 passed the impugned Order.

**4.** Learned counsel for the petitioner would submit that the petitioner suffered from acute and uncontrollable diabetes and Pneumonia for the last six months, as such, he could not prefer appeal within the period of 3 months or within a period of one month beyond the three months by showing the sufficient cause. After the stipulated period, the web portal does not allow the petitioner to prefer appeal. There is a delay of 65 days as on the date of the filing of the present Writ Petition to prefer the appeal. They have very good case on merits.

Accordingly, prays to consider the case of the petitioner since huge amount of tax is involved and give an opportunity to the petitioner to challenge the validity and correctness of the impugned Order passed by the respondent No. 4 before the Appellate Authority *i.e.*, respondent No. 3.

5. Learned Senior Standing Counsel for C.B.I.C while opposing the Writ Petition would submit that in case the Court inclined to allow the Writ Petition, suitable terms may be imposed.

6. We have perused the material on record and also the Order impugned.

7. Petitioner has not challenged the correctness of the impugned Order in the present Writ Petition, but, seeking the indulgence of the Court to condone delay of 65 days in preferring the appeal since due to unavoidable circumstances as he suffered from severe ill-health could not prefer appeal.

8. Needless to emphasize that as per Section 107 of the C.G.S.T Act, 2017, the petitioner has to prefer an appeal against the impugned Order passed by the respondent No. 4 before the respondent No. 3 within a period of three months from the date of service of the Order. Petitioner within a period of one month after expiry of three months also can file appeal against the impugned Order by showing the sufficient cause. In the present case, since it is beyond the condonable period of limitation to entertain the appeal by the respondent No. 3, petitioner approached this Court under Writ jurisdiction seeking indulgence of this Court to condone delay in preferring the appeal. In that view of the matter, since petitioner suffered from several health issues, which is supported by the medical prescriptions filed and huge amount of tax is involved in this matter, we are inclined to condone delay in preferring the appeal by imposing certain terms so as to enable the petitioner to pursue his remedies under law.

9. In the interest of justice, we consider it apposite to allow the Writ Petition and permit the petitioner to prefer an appeal before the respondent No. 3 within a period of one week from the date of receipt of a copy of this Order subject to the petitioner depositing 20% of the disputed tax.

10. Accordingly, the present Writ Petition is allowed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

RITA

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\*In favour of assessee.