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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 4869 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA

and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

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Approved for Reporting	Yes	No
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MARVIN ENTERPRISE
Versus
STATE OF GUJARAT & ORS.

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Appearance:
MR HARDIK P MODH(5344) for the Petitioner(s) No. 1
MS. TANUSHREE SHRIMAL, ASSISTANT GOVERNMENT PLEADER for the Respondent(s) No. 1,2,3

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CORAM: **HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 09/04/2026

ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE PRANAV TRIVEDI)

1. Heard learned advocate Mr. Hardik Vora for the petitioner and Ms. Tanushree Shrimal, learned Assistant Government Pleader for the respondents.

2. ***Rule*** returnable forthwith. Ms. Tanushree Shrimal,

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learned Assistant Government Pleader waives service of notice of rule on behalf of the respondents. With the consent of the parties, the matter is taken up for hearing today itself.

3. The petitioner has preferred the present writ petition under Article 226 of the Constitution of India, praying for directions for quashing and setting aside the Order-in-Appeal dated 19.04.2024 passed under the provisions of Section 107 of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as 'the Act' for short).

4. The brief facts leading to the filing of the present writ petition is that the petitioner is a proprietary concern engaged in trading of chemical products and, *inter alia*, registered with the Gujarat Goods and Service Tax Department with effect from 15.06.2020. It is the case of the petitioner that he received a show-cause notice in Form GST REG-17/31 dated 15.12.2021 alleging that the petitioner has indulged itself in issuing invoice without supply of goods and/ or service, which is in violation of provision of the Act and, therefore, the registration number of the petitioner was proposed to be cancelled. The petitioner vide reply dated 20.12.2021, submitted its reply to the show-cause notice. However, by way of order dated 01.01.2022, the registration number of the petitioner was cancelled.

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4.1 Being aggrieved by the order dated 01.01.2022, the petitioner preferred appeal before the respondent in Form GST APL-01, on 06.06.2022, on the ground that the petitioner had sufficient documents to prove that the purchases were genuine and, therefore, cancellation of the registration was not warranted. It is the case of the petitioner that the respondent **without providing** an opportunity of being heard, passed the impugned order on 19.04.2024, only on the ground that the appeal had been filed after a period, as prescribed under the provisions of Section 107 of the Act. Being aggrieved, the present writ petition is preferred.

5. Learned advocate Mr. Hardik Modh appearing of the petitioner has submitted that the appeal filed by the petitioner was within the period of 4 months as prescribed under Section 107 of the Act.

5.1 It is submitted that order for cancellation of GST registration was passed on 01.01.2022 and the appeal was filed by the petitioner on 06.06.2022. Respondent No. 2, after considering the above dates, held that the appeal has been delayed by 67 days after considering the period of 4 months (3 months as provided under per section 107 (1) of the CGST Act and 1 month as per Section 107(4) of the CGST Act) and, therefore, cannot be

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entertained.

5.2 It is further submitted that the respondent No. 2 failed to appreciate that the time period of 01.01.2022 to 28.02.2022 is required to be excluded as directed by the Hon'ble Supreme Court vide Order dated 10.01.2022 in SUO MOTU Writ Petition (C) No. 3 of 2020 before computing the period of delays.

5.3 It is submitted that in March, 2020, the Hon'ble Supreme Court took *suo motu* cognizance of the difficulties that might be faced by the litigants in filing petitions/ applications/ suits/ appeals/ all other quasi proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central and/or State) due to the outbreak of the COVID 19 pandemic and accordingly, the Hon'ble Supreme Court vide Order dated 10.01.2022 held that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation, as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

5.4 It is further submitted that the Bombay High Court while dealing with a similar situation of delay in filing of appeal under the Goa Value Added Tax Act, 2005 in the case of M/s. NovaCare Drug Specialities Pvt. Ltd. v. State

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of Goa & Ors [2023 (8) TMI 53 BOMBAY HIGH COURT], held that having regard to the Supreme Court's orders in SMWP No.3/2020 and the subsequent restoration in Cognizance for Extension of Limitation, the period from 15.03.2020 till 28.02.2022 must be excluded for the purposes of computing limitation for judicial and quasi-judicial proceedings. The petitioner's cause falls within paragraph 5.1 of the Supreme Court's order restoring the exclusion; therefore the starting point for computation of limitation for filing the appeal under Section 35 is to be treated as 01.03.2022.

5.5 It is further submitted that in the present case, the period of limitation starts from 01.03.2022 and not from 01.01.2022 (as held by respondent no.2). Therefore, due date of furnishing the appeal of 4 months will be started from 01.03.2022 and time limit for filing of appeal of three months and one month expires on 01.07.2022 (3 months as provided under per section 107 (1) of the CGST Act and 1 month as per Section 107(4) of the CGST Act) and the appeal was filed on 06.06.2022 and therefore, the appeal was filed within the time limit of condonable delay which is within the power of the respondent no.2.

6. Per contra, Ms. Tanushree Shrimal learned Assistant Government Pleader has vehemently contended that the

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Order-in-Original for cancellation of registration was passed on 01.01.2022 and the appeal was filed on 06.06.2022, which was clearly beyond the period of 4 months as envisaged under Section 107(4) of the Act. Once the appeal is filed beyond the period of limitation, the discretion of the appellate authority ends to consider delay. It was further submitted that when an additional period of 30 days is supplied by the statute over and above the basic period of 90 days, as per Section 107(4) of the Act and the same stand exhausted, even this Court cannot exercise powers under Article 226 of the Constitution of India to dilute the intention of the legislature and further extend the limitation by condoning the delay by re-examining the 'sufficient cause'. In wake of such submissions, learned Assistant Government Pleader Ms. Shrimal has prayed to dismiss the present writ petition.

7. Having heard learned advocates for the respective parties and perused the material on record. The short question for consideration before this Court is whether the appeal preferred by the writ petitioner was beyond the period of limitation as envisaged under Section 107(4) of the Act. For considering this aspect, certain dates would be necessary. It is not in dispute that the order cancelling the registration of the petitioner was 01.01.2022 and the petitioner had preferred the appeal

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on 06.06.2022. As per the direction of the Hon'ble Supreme Court, in order dated 10.01.2022 in Suo Motu Writ Petition (C) No.3/2020, it has been categorically directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation, as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings. Therefore, in the present case, the period of limitation started from 01.03.2022. If we consider the period from 01.03.2022, the period of 120 days would get over on 30.06.2022. Therefore, the appeal preferred by the writ petitioner is between the extended period of one month i.e. from period of 90 days to 120 days. Therefore, as per provision of Section 107(4) of the Act it was within the discretion of the authority to condone the delay if he was satisfied with the grounds, as given by the writ petitioner. In the instant case, the appellate authority has dismissed the appeal on the ground that the same has been preferred after the period of 120 days and, therefore, the appellate authority cannot have the discretion to condone the delay. In fact of this case and looking to the dates, as mentioned hereinabove, such observation of the appellate authority is erroneous and is therefore required to be quashed and set aside and is hereby quashed and set aside. The matter is remanded to the appellate authority. The appellate authority shall looking to the reasons given by the present petitioner with regard to the delay, which

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was held beyond the period of 90 days but within 120 days and if satisfied by the reason given, the same may be condoned and the appellate authority may hear the appeal on merits.

It is clarified that this Court has not opined anything on merits and also on the reasons of delay beyond 90 days but within 120 days, as the same are not enumerated in the present writ petition. The appellate authority shall pass appropriate order, as per directions given by this Court in the present matter, within a period of 12 months from the date of receipt of this order.

The petition is partly allowed to the aforesaid extent with no order as to costs. Rule is made absolute.

(A. S. SUPEHIA, J)

(PRANAV TRIVEDI,J)

SAJ GEORGE/DB/28

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