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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 18th August, 2025

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W.P.(C) 12366/2025

M/S CLASSIC CONSTRUCTION CO

.....Petitioner

Through: Mr. Pulkit Verma & Mr. Saket Jain,
Adv.

versus

UNION OF INDIA & ORS.

.....Respondent

Through: Mr. Aditya Singla, SSC with Ms.
Shreya Lamba, Adv.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 50450/2025 (for Exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

W.P.(C) 12366/2025 & CM APPL. 50449/2025

3. The present petition has been filed on behalf of the Petitioner- M/s Classic Construction Co. under Articles 226 and 227 of the Constitution of India *inter alia* challenging the Order-in-Appeal dated 13th May, 2025 (*hereinafter, the 'impugned order'*) passed by the Respondent No. 3-Office of the Commissioner of Central Tax Appeals-I, Delhi.

4. Further, vide the present petition, the Petitioner is assailing the ***Notification No. 56/2023-Central Tax*** dated 28th December, 2023 on the ground that the same is *ultra vires* to the Central Goods and Services Tax Act, 2017 (*hereinafter, the 'CGST Act, 2017'*).



5. In the impugned order, the Respondent No. 3 authority rejected the appeal filed by the Petitioner herein, assailing the Order-in-Original dated 30th April, 2024, on the ground that the same is time barred in terms of Section 107 of the CGST Act, 2017.

6. A brief background of the present case is that the Petitioner is a sole proprietorship firm, which is stated to be *inter alia* engaged in the trading business of ceramic products. In 2017, the Petitioner got itself registered under the CGST Act, 2017 and subsequently had a Goods and Services Tax Identification ('GSTIN') No. 07AIOPA9493M1ZI. However, on 18th January, 2023 a notice under Section 61 of the CGST Act, 2017 was issued to the Petitioner by the Respondent No.2 raising various discrepancies in the returns of the Petitioner.

7. In the meantime, **Notification No. 56/2023-Central Tax** dated 28th December, 2023 was issued, by which, the limitation for filing GST returns was extended, thereby extending the limitation for issuance of Show Cause Notices under Section 73 of the CGST Act, 2017 as well.

8. On 29th December, 2023, a further Show Cause Notice was issued to the Petitioner by the Respondent No. 2. The said notice alleged excess availment of Input Tax Credit. A reply to the said notice was filed on 19th February, 2024 and the Order-in-Original was passed on 30th April, 2024 which according to the Petitioner was uploaded and served only on 31st May, 2024. Vide the said Order-in-Original a demand to the tune of Rs. 44,10,806/- was confirmed *qua* the Petitioner.

9. Aggrieved by the said Order-in-Original, the Petitioner preferred an appeal against the same on 8th November, 2024, which has been dismissed vide order dated 13th May, 2025, on the ground that the same is barred by limitation.



The operative portion of the said Order-in-Appeal is set out below:

“5. I have carefully gone through all the documents available on record and various submissions made by the appellant . Firstly, I will examine whether the instant appeal has been filed within statutory period or not. I note that Sub Section (1) of Section 107 of CGST Act , 2017 prescribes the period of filing an appeal as under :

"Section 107 (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Service Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

5.1 I find that the instant appeal has been filed against Order-In-Original No. ZD0705240524500 dated 30.04.2024. Therefore, in terms of section 107(1), the last date of filing the instant appeal was 29.07.2024 whereas the same has been filed online on 08.11.2024 i.e., after a delay of more than three months from the last date of filing of instant appeal .

5.2 Here, I also find that the delay of one month in filing an appeal can be condoned under section 107(4) of CGST Act , 2017 , if sufficient cause is shown. In the instant case, I find that the appellant has not filed any application for condonation of delay in the instant matter . Furthermore , I find that the delay in filing the instant appeal is beyond one month for which I am not vested with the power to condone. Even if one month is condoned, the appeal will remain time-barred.

6. In view of the above, I am of the considered view that the instant appeal filed by the appellant is hit by time-limitation as provided under the Act and therefore the same is liable to be rejected on this count alone without going into the merits of the case.

ORDER



7. Considering the above discussion and findings , the impugned order i.e., Order -In-Original No. ZD0705240524500 dated 30.04.2024 is up held and the appeal filed by the appellant is rejected as discussed supra and disposed of in terms of Section 10 7(12) of CGST Act, 2017 .”

10. This Court has considered similar matters wherein the **Notification No. 56/2023-Central Tax** dated 28th December, 2023 has been challenged, including in the decision in **W.P.(C) 1613/2025** titled **M/s Mohan International Through Its Karta Mohit Kaushik v. Union of India & Ors.** In the said decision, the Court held as under:

8. In the opinion of this Court, the appeal filed by the Petitioner u/s 107 of the Central Goods and Service Tax Act, 2017 shall be heard on merits by the Appellate Authority and shall not be dismissed on limitation, so long as the appeal complies with the other conditions under Section 107 of the said Act including pre-deposit.

9. In view of the abovementioned circumstances, and the fact that the challenge to the impugned notification is pending before the Supreme Court, this Court is inclined to provide the Petitioner another opportunity to present its case on merits. Accordingly, the order dated 2nd December, 2024 is set aside and the appeal is restored to its original number. The appeal shall now be adjudicated on merits after affording a personal hearing to the Petitioner. A hearing notice of the Appeal shall be provided by the Appellate Authority on the following email address....”

11. Considering the fact that the challenge to the **Notification No. 56/2023-Central Tax** dated 28th December, 2023 is pending in the Supreme Court, the appeal of the Petitioner deserves to be heard on merits. Accordingly, the appeal is restored to its original number before the Appellate Authority. The same shall



be adjudicated on merits and shall not be dismissed on the ground of limitation.

12. The hearing notice shall be given to the Petitioner on the following email address: pulkit@enurelegal.com

13. After hearing the matter, a reasoned and speaking order shall be passed by the Appellate Authority.

14. Petition is disposed of in these terms. All pending application(s), if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

AUGUST 18, 2025/Rahul/Rks