# M/S Ankit Motors v. State Of U.P. And 2 Others

WRIT TAX No. 1345 of 2022 | Decision: 2023-03-29 | Allahabad High Court



Court No. - 6

Case :- WRIT TAX No. - 1345 of 2022

Petitioner :- M/S Ankit Motors Respondent :- State Of U.P. And 2 Others Counsel for Petitioner :- Rishi Raj Kapoor Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia,J.

Heard counsel for the petitioner.

Present petition has been filed challenging the order dated 25.08.2022, whereby the appeal preferred by the petitioner challenging the order dated 18.12.2021 was dismissed being barred by limitation as prescribed under Section 107 of the GST Act.

Facts in brief are that an order was passed against the petitioner on 18.12.2021 and the petitioner filed an appeal against the said order on 30.06.2022.

The submission of the counsel for the petitioner is that the petitioner is entitled to benefit of extension of limitation in terms of the order of the Hon'ble Supreme Court passed in Misc. Application No. 21 of 2022 in Suo Motu Writ Petition No. 03 of 2020, wherein the Hon'ble Supreme Court granted benefit as under:-

"In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022. Notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply".

In the light of the directions given by the Hon'ble Supreme Court, a period of 90 days' is available from 01.03.2022 and in the event the actual balance of period of limitation is greater than 90 days. The longer period shall apply, thus, in terms of the order of the Hon'ble Supreme Court, the petitioner had 90 days with effect from 01.03.2022. The period of limitation can be extended by the Tribunal in terms of the power of the Appellate Authority under Section 107(4) of the GST Act for sufficient cause by another 30 days over the 90 days.

The second part of the direction of the Hon'ble Supreme Court has not been considered in the Appellate Authority's order, as such, order dated 25.08.2022 is set aside. The matter is remanded for the decision on the appeal on merits.

Delay is condoned in view of the direction of the Hon'ble Supreme Court.

Order Date :- 29.3.2023 S.A.

2023-04-05T11:01:22+0530 High Court of Judicature at Allahabad