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WP-35184-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

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HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH

ON THE 15th OF OCTOBER, 2025WRIT PETITION No. 35184 of 2025*LAXMI MOTORS**Versus**STATE OF M.P. AND OTHERS*

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Appearance:

Shri Sapan Usrethe - Advocate for the petitioner.

Shri Rajwardhan Datt Paroha - Government Advocate for the State of M.P.

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ORDER

Per. Justice Vivek Agarwal

This petition is filed challenging the order dated 13.8.2025 (Annexure P-1) passed by the Appellate Authority and the Joint Commissioner, State Taxes, Satna Division in Appeal Case No.115/Appeal /Penalty/2024, whereby the appeal filed by the appellant - Laxmi Motors against the order dated 26.7.2024 on 25.11.2024 has been termed to be barred by limitation, thus dismissed.

2. Shri Usrethe, learned counsel for the petitioner submits that in terms of the judgment of Hon'ble Supreme Court in **State of Himachal Pradesh and another Vs. Himachal Techno Engineers and another (2010) 12 SCC 210** firstly in terms of the provisions contained in Section 9 of the General Clauses Act 1897, day of passing the order i.e. 26.7.2024 shall be excluded and limitation is to be counted from 27.7.2024.



3. It is further submitted that since sub Section (1) of Section 107 Central Goods and Services Tax Act 2017 provides for a limitation of three months and not 90 days, in terms of the provisions contained in law, limitation is computed for three months and not 90 days, which will expire on 27.10.2024.

4. Thereafter under sub Section (4) of Section 107, appellate authority has been given one month's further grace period to entertain the appeal over and above three months or six months as the case may be and when this aspect is taken into consideration, then one month period from 27.10.2024 would have expired on 26.11.2024 but appeal was filed prior to that on 25.11.2024. Therefore, admittedly appeal was filed within the period of limitation but this aspect has been overlooked by the learned appellate authority.

5. Shri Paroha, learned Government Advocate for the State who was granted time on 19.9.2025 to seek instructions, in the first place, submits that copies of the judgments which have been uploaded in reference were not given to him and secondly he submits that he has taken instructions and submits that infact the authority computed limitation of 120 days and, therefore, appeal was admittedly barred by two days.

6. After hearing learned counsel for the parties and going through the record, it is evident and not disputed that the impugned order against which appeal was filed is passed by one Minakchhi Pandey, Assistant Commissioner of State Tax Rewa : Satna Division : Jabalpur Zone : Madhya Pradesh in Reference No.ZD230724024483L on 26.7.2024. **As per the**



provisions contained in Section 9 of the General Clauses Act 1897, it is provided that in any Central Act, when the word "from" is used to refer to commencement of time, the first of the days in the period of time shall be excluded. Therefore the period of "three months from the date of which the party making that application had received the arbitral award", shall be computed from the date next to the date on which order was passed. Thus, in terms of the provisions contained in Section 9 of the General Clauses Act in the present case three months limitation as provided under sub Section (1) of Section 107 of the GST Act will commence from 27.7.2024.

7. Hon'ble Supreme Court in the case of **Himchal Techno Engineers (supra)** has referred to Section 3 (35) of the General Clauses Act, 1897 to define a "month" as meaning a month reckoned according to the British Calendar. It is noted that "17. in **Dodds Vs. Walker (1981) 1 WLR 1027 : (1981) 2 ALL Er 609 (HL)** the House of Lords held that in calculating the period of a month or a specified number of months that had elapsed after the occurrence of a specified event, such as the giving of a notice, the general rule is that the period ends on the corresponding date in the appropriate subsequent month irrespective of whether some months are longer than others. "To the same effect is the decision of this Court in **Bibi Salma Khatoon v. State of Bihar [(2001) 7 SCC 197.]**"

8. Thus, it is evident that period of limitation would have commenced on 27.7.2024 and in terms of the judgment of the Supreme Court in **Bibi Salma Khatoon v. State of Bihar [(2001) 7 SCC 197]** so also the House of Lords in **Dodds Vs. Walker**, three months' period would be over on



27.10.2024. Thereafter in terms of sub Section (4) of Section 107 of the Central Goods and Services Act 2017, a further period of one month has been provided which would have come to an end on 26th November 2024. Therefore, appeal filed on 25th November 2024 cannot be said to be barred by limitation. ■

9. Accordingly, the impugned order dated 13.8.2025 (Annexure P-1) having failed to take into consideration the provisions contained in Section 107 (1) and sub Section (4) of Section 107 so also the law laid down by Hon'ble Supreme Court in **Himchal Techno Engineers (supra)** is not sustainable in the eyes of law and is accordingly set aside. This writ petition is allowed and disposed off.

10. Let appeal be decided on its own merits.

11. State to bear cost of this litigation. It is quantified as Rs.25,000/-. Let this cost be recovered from the delinquent if the department so desires. This cost shall not be recovered from the public exchequer at any cost.

(VIVEK AGARWAL)
JUDGE

(AVANINDRA KUMAR SINGH)
JUDGE

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