Agrawal Enterprises vs State of Gujarat & Ors.

Appeal – Limitation for filing appeal under Sections 107(1) and 107(4) of the CGST/SGST Act, 2017 – whether delay beyond the maximum period of 120 days can be condoned by High Court under Article 226.

Date of Order: January 16, 2026
Case Law No: GIB-GUJHC-2026-04-DB
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Facts:
The petitioner challenged the order dated 30.09.2025 by which the appellate authority rejected the appeal on the ground of delay. The demand order dated 21.03.2024 under Section 74(5) of the CGST/SGST Act raised tax, interest and penalty. The petitioner filed the appeal under Section 107 after a delay of about 284 days and sought condonation of delay stating that the order on the portal was not noticed due to lack of computer knowledge.

Court Decision:
The Court held that under Section 107(1) an appeal must be filed within three months and under Section 107(4) the appellate authority may condone delay only for an additional period of one month. Once the maximum period of 120 days is exhausted, neither the appellate authority nor the High Court can condone the delay.

Relying on the judgment of the Supreme Court in *Assistant Commissioner (CT) LTU, Kakinada v. Glaxo Smith Kline Consumer Health Care Limited*, the Court held that the High Court cannot exercise jurisdiction under Article 226 to extend limitation beyond the statutory period prescribed by the statute. As the appeal was filed after 284 days and beyond the maximum permissible period, the writ petition was dismissed and the order of the appellate authority was upheld.

Cases Referred by Court:

· Assistant Commissioner (CT) LTU, Kakinada & Ors. v. Glaxo Smith Kline Consumer Health Care Limited, (2020) 19 SCC 681

· Oil and Natural Gas Corporation Limited v. Gujarat Energy Transmission Corporation Limited & Ors., (2017) 5 SCC 42

· Singh Enterprises v. Commissioner of Central Excise, Jamshedpur & Ors.

· Commissioner of Customs and Central Excise v. Hongo India Private Limited

· Chhattisgarh State Electricity Board v. Central Electricity Regulatory Commission & Ors.

· Suryachakra Power Corporation Limited v. Electricity Department represented by its Superintending Engineer, Port Blair & Ors.

· Supreme Court Bar Association v. Union of India, (1998) 4 SCC 409

· A.R. Antulay v. R.S. Nayak, (1988) 2 SCC 602

· Union Carbide Corporation v. Union of India, (1991) 4 SCC 584

· Prem Chand Garg v. Excise Commissioner, AIR 1963 SC 996

· Mafatlal Industries Ltd. v. Union of India

· Panoli Intermediate (India) Pvt. Ltd. v. Union of India & Ors.

· Phoenix Plasts Company v. Commissioner of Central Excise (Appeal-I), Bangalore

· Electronics Corporation of India Ltd. (Full Bench, Andhra Pradesh High Court)

GST INDIA BIZ

© 2026 GST INDIA Biz. All rights reserved.