Giri Transport Company vs. The Appellate Authority for Advance Ruling,

Whether departmental appeals filed against an Advance Ruling — on non-inclusion of free-of-cost (FOC) diesel supplied by service recipient in the taxable value of Goods Transport Agency (GTA) services — are maintainable despite objections of limitatio

Date of Order: May 20, 2026
Case Law No: GIB-RAJHC-2026-49
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CASE DESCRIPTION / SUMMARY

BACKGROUND

The petitioner, a Goods Transport Agency, filed an application under Section 97 of the RGST Act, 2017 before the Rajasthan Authority for Advance Ruling (AAR) seeking a ruling on whether the value of diesel supplied free of cost (FOC) by the service recipient is liable to be included in the taxable value of transport services. The jurisdictional SGST officer participated in the AAR proceedings and categorically supported the petitioner's stand that GST is not leviable on FOC diesel. The AAR vide ruling dated 16.06.2022 held in favour of the petitioner that FOC diesel is not includable in the taxable value of GTA services. Thereafter, two appeals were filed against this ruling — one by the CGST authority and one by the very same SGST officer who had earlier supported the petitioner — both beyond the prescribed limitation period and without proper condonation applications. The petitioner raised detailed preliminary objections before the Appellate Authority for Advance Ruling (AAAR). The AAAR rejected all preliminary objections vide impugned order dated 01.07.2024 and directed the matter to be heard on merits. Aggrieved, the petitioner filed the present writ petition — notably, its second approach to the High Court, the first having been disposed of in 2022 directing preliminary objections to be decided first.

CRUCIAL FACTS

The AAR ruling dated 16.06.2022 was uploaded on the GST portal on 17.06.2022. The CGST authority claimed receipt on 29.06.2022 and filed its appeal on 12.08.2022 (56 days — within the maximum 60-day permissible period). The SGST officer claimed receipt on 15.09.2022 and filed its appeal on 14.10.2022 (within 30 days of claimed receipt). The petitioner contended that both

appeals were time-barred, as the ruling was duly communicated via Speed Post and portal upload in June 2022 itself, supported by India Post tracking data and a letter dated 15.09.2022 from AAR confirming Speed Post dispatch on 21.06.2022. The AAAR, however, accepted the dates of actual receipt as claimed by the departmental appellants, condoned the marginal delay of 21 days in CGST's case, and rejected all five preliminary objections — on 90-day adjudication limit, limitation for filing, hard copy filing, locus of CGST authority, and estoppel against the department for reversing its earlier stand.

COURT OBSERVATIONS (Verbatim — Crucial)

On 90-day mandatory vs. directory — Section 101(2):

"*There is no provision in the CGST or RGST Act that provides for automatic lapsing of an appeal upon expiry of the 90-day period, nor does the Act prescribe any consequence for non-compliance with this timeline. The absence of a penal consequence for delay is itself a strong indicator that the provision is directory. The petitioner's reliance on mere passage of time, without any prejudice demonstrated, cannot be a ground to shut out a legitimate appeal on merits.*"

"*A provision whose strict construction destroys the very right it was designed to protect cannot be read as mandatory. The 90-day period is therefore directory, being an outer limit to ensure expeditious disposal and not a jurisdictional condition precedent to the exercise of appellate power.*"

"*The use of the word 'shall' in a statute does not by itself render a provision mandatory in every case… whether 'shall' is mandatory or directory depends upon the context, the object of the provision, the scheme of the statute, and the consequences that would flow from the interpretation thereof.*"

On Limitation:

"*Section 169 prescribes modes of service, but communication for the purpose of limitation must be reckoned from the date of actual receipt where such date is specifically established.*"

"*No further elaborate reasons are required to be recorded for condonation of a delay of merely 15 to 21 days in a matter involving a question of law of significance to the entire State. There is no infirmity in this finding.*"

On Locus Standi of CGST Authority:

"*The Act does not restrict the right of appeal to whichever of the two happened to participate in the advance ruling proceedings. The statute confers the right of appeal on both, and this right cannot be extinguished on the ground that one of them did not appear or represent the department before the*

AAR. Jurisdiction and right of appeal are statutory, they do not depend upon prior participation in the proceedings below."

On Estoppel:

"*It is a settled and fundamental principle of constitutional and administrative law that there is no estoppel against the State in matters of taxation and statutory duty. A representation or stand taken by a subordinate officer without due authority and without proper application of mind by the competent authority cannot bind the State or the department... The department's right to correct such an error through the statutory remedy of appeal cannot be defeated by the doctrine of estoppel.*"

On Hard Copy Filing:

"*Rule 107A of the CGST Rules expressly permits manual filing of documents notwithstanding any provision that prescribes electronic filing... A procedural prescription cannot be elevated into a jurisdictional bar, and the appeals cannot be thrown out on this purely technical ground.*"

On Petitioner's Conduct:

"*This conduct reveals a clear attempt to indefinitely delay the final adjudication on merits. The petitioner cannot be permitted to use the writ jurisdiction of this Court as an instrument of delay.*"

FINAL VERDICT

The writ petition is dismissed as bereft of merit. The petitioner is directed to join proceedings before the Appellate Authority. All preliminary objections against maintainability of departmental appeals stand rejected.

 THUMBS DOWN *(Against Assessee)*

ADDITIONAL FOOTNOTES

CASES REFERRED BY COURT

S.No.	Case Name	Citation
1.	M/s Shree Jeet Transport v. Union of India *(Chhattisgarh HC — on FOC diesel includability in GTA value)*	2023 SCC OnLine Chh 5982
2.	Municipal Committee, Charkhi Dadri v. Ramji Lal Bagla *(SC — on directory nature of 'shall')*	(1995) 5 SCC 272

S.No.	Case Name	Citation
3.	Mohan Singh v. International Airport Authority of India *(SC — on mandatory vs. directory)*	(1997) 9 SCC 132
4.	Bachahan Devi v. Nagar Nigam Gorakhpur *(SC — on mandatory vs. directory)*	(2008) 12 SCC 372
5.	Dinesh Chandra Pandey v. High Court of Madhya Pradesh *(SC — on mandatory vs. directory)*	(2010) 11 SCC 500

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