

KANAN INTERNATIONAL PVT. LTD. & ANR. v. UNION OF INDIA & ORS.

Limitation of appeal under Section 107 and effect of rectification under Section 161. Whether limitation runs from the original order or the subsequent rectification order.

Date of Order: August 13, 2026
Case Law No: GIB-GUJHC-2026-110
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

The refund application was initially rejected by the Adjudicating Authority on 16.12.2019. An appeal against that rejection was allowed on 08.10.2020 because the order had been passed without granting an opportunity of hearing, and the matter was remanded for fresh adjudication. After a fresh notice and reply, the refund claim was again rejected by order dated 03.10.2022.

Against the fresh rejection, a rectification application under **Section 161 of the GST Act** was filed on 02.01.2023, within the prescribed period of 90 days. The rectification application was rejected by a reasoned order dated 14.09.2023. Thereafter, an appeal was filed on 11.01.2024 challenging both the original order and the rectification order. The Appellate Authority rejected the appeal solely on limitation by calculating the limitation period from the original order dated 03.10.2022.

Court Observation

The Court held that the filing of the rectification application under Section 161 within the prescribed statutory period was a **vital aspect directly affecting calculation of limitation under Section 107**. Since the rectification application was duly considered and decided by a reasoned order dated 14.09.2023, the Appellate Authority was required to consider the limitation period from that date rather than mechanically calculating it from the original adjudication order dated 03.10.2022.

The Court further observed that if, after calculating limitation from the date of the rectification order, the appeal was still found to be barred by limitation, the Appellate Authority could reject it on that ground. However, it was **not permissible to reject the appeal by calculating limitation from the original adjudication order** where a rectification application had been filed within the prescribed period and had subsequently been decided by the Adjudicating Authority.

Final Verdict

The group of petitions **succeeded**. The High Court **quashed and set aside the impugned orders of the Appellate Authority** which had rejected the appeals on limitation.

The matters were **remanded to the Appellate Authority** to decide the appeals afresh on merits and in accordance with law, after providing an opportunity of hearing, within **12 weeks from the date of receipt of the judgment**. The Rule was made absolute.

Case Referred by Court

[New Kailash Suppliers v. State of Gujarat & Ors.](#)

Gujarat High Court — 29.01.2026

Special Civil Application No. 9540 of 2025

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