2025:AHC:224161-DB

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 5865 of 2025

M/S Prakash Medical Stores

.....Petitioner(s)

Versus

Union Of India And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Shubham Agrawal
Counsel for Respondent(s)	:	A.S.G.I., C.S.C., Sudarshan Singh

Court No. - 3

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE VIVEK SARAN, J.

1. Heard Shri Shubham Agrawal, learned counsel for the petitoner, Shri Ankur Agarwal, learned Standing Counsel for the Revenue and perused the record.

2. The present writ petition has been filed to assail the order dated 05.03.2025 passed by Additional Commissioner, Grade-2 (Appeal)-V, State Tax, Kanpur (respondent No.4) whereby the first appeal filed by the petitioner under Section 107 of the UP GST Act, 2017 (herein after referred to as the Act), against the ex-parte adjudication order dated 23.04.2024 passed by the Deputy Commissioner, State Tax, Sector-27, Lakhanpur Kanpur-respondent No.3, under Section 73 of the Act for the Financial Year 2018-19, (creating demand of Tax/Cess Rs.7,81,838.98/- together with interest Rs.7,86,164/- and penalty Rs.78,184/-) has been dismissed as time barred. The remaining prayers (in the petition) have not been pressed.

3. Arising from the ex-parte adjudication order dated 23.04.2024, the petitioner first filed an application referable to Section 161 of the Act (seeking rectification in the order dated 23.04.2024), on 23.5.2024 i.e. after a month and one day. The said application was rejected by the order dated 22.10.2024, as not maintainable.

4. At that stage, the petitioner filed an appeal under section 107 of the Act on 29.11.2024 i.e. within a month and eight days from the date of the order passed under Section 161 of the Act.

5. According to the petitioner, there was no delay in filing that appeal as it was entitled to the benefit of the principle underlying Section 14 of the Limitation Act, 1963 (hereinafter referred to as "Limitation Act"). However, the appellate authority has rejected the appeal and dismissed those proceedings as time-barred, vide order

dated 05.03.2025.

6. Primarily, this order is under challenge in the present writ petition. At present, the Tribunal has not been made functional. For that reason, the present writ petition has been entertained, upon lifting the self imposed bar of alternative remedy.

7. Submission of learned counsel for the petitioner is-though, in terms, Section 14 of the Limitation Act does not apply to proceedings under the Act, at the same time, the underlying principle contained in Section 14 of the Limitation Act does apply. Reliance has been placed on a decision of the Supreme Court in **M.P. Steel Corporation vs. Commissioner of Central Excise 2015 (319) E.L.T. 373 (S.C.)**. Further reliance has been placed on a decision of the Madras High Court in **M/s. SPK and Co. vs. The State Tax Officer in W.P.(MD) Nos. 27787 and 27788 of 2024 and W.M.P.(MD) Nos. 23585 and 23586 of 2024** decided on **22.11.2024** and another decision of the Punjab and Haryana High Court in **M/s Arvind Fashion Limited vs. State of Haryana and others 2025:PHHC:135347-DB**. Also, reliance has been placed upon observation made in paragraph No.14(D) of the order passed by a co-ordinate bench in **Atlantis Intelligence Ltd. vs. Union of India and 2 others, 2025:AHC:135383-DB**.

8. Thus, it has been submitted, the learned Appeal Authority has erred in law in declining to give benefit of the principle contained in Section 14 of the Limitation Act. If the duration of pendency of the rectification of mistake application filed by the petitioner under Section 161 of the Act is excluded, the appeal filed by the petitioner would be within three months from the date of communication of the order dated 23.4.2024. Thus, the appeal filed is within limitation.

9. On the other hand, learned Standing Counsel would contend that the period of limitation is prescribed under the Act, to file appeals etc. In the first place, the limitation of three months existed to file such appeal. Thereafter, delay of only one month could be condoned, subject to sufficient cause being established by the petitioner. Since admittedly, the appeal was first preferred by the petitioner on 29.11.2024, outside four months from the date of communication of the Adjudication Order dated 24.03.2024, the delay condonation application has rightly been dismissed, as time barred.

10. To the extent the Act provides for an inflexible period of limitation to file appeals, the principle of law enshrined under Section 14 of the Limitation Act has no application. Reliance has been placed on **Commissioner of Customs & Central Excise vs. Hongo India Pvt. Ltd. (2009) 5 SCC 791** and **Assistant Commissioner (CT) LTU, Kakinada vs. Glaxo Smith Kline Consumer Health Care Limited, (2020) 19 SCC 681.**

11. Alternatively, it has been submitted, wherever any application seeking rectification may be filed after expiry of limitation to file such application, no benefit may be drawn by such a person, by relying on principle contained under Section 14 of the Limitation Act.

12. Having heard learned counsel for the parties and having perused the record, before we discuss the issue any further, it would be useful to extract the provisions of Section 107(1), (4) of the Act. They read as below:

> *"Section 107(1): Appeals to Appellate Authority.-*
>
> *(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.*
>
> *(2)...*
>
> *(3)...*
>
> *(4):The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month."*
>
> *(emphasis supplied)*

13. Section 161 of the Act reads as below:

> *"Section 161: Rectification of errors apparent on the face of record.-*
>
> *Without prejudice to the provisions of section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the State Goods and Services Tax Act or an officer appointed under the Union Territory Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be:*
>
> *Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document:*
>
> *Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:*
>
> *Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification."*
>
> *(emphasis supplied)*

14. We also find it useful to extract the provisions of Section 14 of Limitiation Act, which reads as below:

> *"Section 14. Exclusion of time of proceeding bona fide in court without jurisdiction.-*
> *(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.*
>
> *(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.*
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> *(3) Notwithstanding anything contained in rule 2 of Order XXIII of the Code of Civil Procedure, 1908 (5 of 1908), the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the court under rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the court or other cause of a like nature.*
>
> *Explanation.—For the purposes of this section,—*
>
> *(a) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;*
>
> *(b) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;*
> *(c) misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction."*
>
> *(emphasis supplied)*

15. As to applicability of the Limitation Act, the issue is not res integra. In **M.P. Steel (supra), t**he Supreme Court considered the principle of pre-existing law laid down by that court in **Bhudan Singh and another vs. Nabi Bux and another (1970) 2 SCR 10**; **J. Kumaradasan Nair vs. Iric Sohan (2009) 12 SCC 175**, **Consolidated Engg Enterprises vs. Irrigation Department (2008) 7 SCC 169** and **Commissioner of Sales Tax vs. Parson Tools and Plants (1975) 4 SCC 22**. Thereafter, the Court distinguished **Parson Tools (supra)** and held though the provisions of Section 14 of the Limitation Act may not apply in terms-to proceedings/appeals under the Customs Act, at the same time, the underlying principle of Section 14 would apply to such proceedings, as well.

16. In **M.P. Steel (supra)**, against the order of adjudication, the aggrieved person directly approached the Custom Excise Service Appellate Tribunal (the second appeal authority). That Tribunal allowed the appeal. Against that order, the matter travelled to the Supreme Court. The Revenue's

appeal was allowed, and the order of the Tribunal was set aside. Thereafter, the aggrieved person approached the first appeal authority and explained-it had committed a mistake in approaching the Tribunal directly. The first appeal was dismissed on account of delay. On the matter again reaching the Supreme Court (in the second round of litigation), it was ruled that the underlying principle of Section 14 would apply to such facts as well.

17. Relevant to the above, first, **Parson Tools (supra)** was distinguished, on the following reasoning:

> *"34. However, it remains to consider whether Shri Sanghi is right in stating that Section 128 is a complete code by itself which necessarily excludes the application of Section 14 of the Limitation Act. For this proposition he relied strongly on Parson Tools which has been discussed hereinabove. As has already been stated, Parson Tools was a judgment which turned on the three features mentioned in the said case. Unlike the U.P. Sales Tax Act, there is no provision in the Customs Act which enables a party to invoke suo moto the appellate power and grant relief to a person who institutes an appeal out of time in an appropriate case. Also, Section 10 of the U.P. Sales Tax Act dealt with the filing of a revision petition after a first appeal had already been rejected, and not to a case of a first appeal as provided under Section 128 of the Customs Act. Another feature, which is of direct relevance in this case, is that for revision petitions filed under the U.P. Sales Tax Act a sufficiently long period of 18 months had been given beyond which it was the policy of the legislature not to extend limitation any further. This aspect of Parson Tools has been explained in Consolidated Engineering in some detail by both the main judgment as well as the concurring judgment. In the latter judgment, it has been pointed out that there is a vital distinction between extending time and condoning delay. Like Section 34 of the Arbitration Act, Section 128 of the Customs Act is a Section which lays down that delay cannot be condoned beyond a certain period. Like Section 34 of the Arbitration Act, Section 128 of the Customs Act does not lay down a long period. In these circumstances, to infer exclusion of Section 14 or the principles contained in Section 14 would be unduly harsh and would not advance the cause of justice. It must not be forgotten as is pointed out in the concurring judgment in Consolidated Engineering that:*
>
> > *"Even when there is cause to apply Section 14, the limitation period continues to be three months and not more, but in computing the limitation period of three months for the application under Section 34(1) of the AC Act, the time during which the applicant was prosecuting such application before the wrong court is excluded, provided the proceeding in the wrong court was prosecuted bona fide, with due diligence. Western Builders [(2006) 6 SCC 239] therefore lays down the correct legal position."*
>
> *(Emphasis supplied)*

18. Second, as to the applicability of the principle contained in Section 14 of the Limitation Act, the Supreme Court further observed as below:

> *35. Merely because Parson Tools also dealt with a provision in a tax statute does not make the ratio of the said decision apply to a completely differently worded tax statute with a much shorter period of limitation – Section 128 of the Customs Act. Also, the principle of Section 14 would apply not merely in condoning delay within the outer period prescribed for condonation but would apply de hors such period for the reason*

pointed out in Consolidated Engineering above, being the difference between exclusion of a certain period altogether under Section 14 principles and condoning delay. As has been pointed out in the said judgment, when a certain period is excluded by applying the principles contained in Section 14, there is no delay to be attributed to the appellant and the limitation period provided by the concerned statute continues to be the stated period and not more than the stated period. We conclude, therefore, that the principle of Section 14 which is a principle based on advancing the cause of justice would certainly apply to exclude time taken in prosecuting proceedings which are bona fide and with due diligence pursued, which ultimately end without a decision on the merits of the case. "

(emphasis supplied)

19. Third, as to the object/purpose of Section 14 or its principle, the Supreme Court observed as below:

"41.The language of Section 14, construed in the light of the object for which the provision has been made, lends itself to such an interpretation. The object of Section 14 is that if its conditions are otherwise met, the plaintiff/applicant should be put in the same position as he was when he started an abortive proceeding. What is necessary is the absence of negligence or inaction. So long as the plaintiff or applicant is bonafide pursuing a legal remedy which turns out to be abortive, the time beginning from the date of the cause of action of an appellate proceeding is to be excluded if such appellate proceeding is from an order in an original proceeding instituted without jurisdiction or which has not resulted in an order on the merits of the case. If this were not so, anomalous results would follow. Take the case of a plaintiff or applicant who has succeeded at the first stage of what turns out to be an abortive proceeding. Assume that, on a given state of facts, a defendant – appellant or other appellant takes six months more than the prescribed period for filing an appeal. The delay in filing the appeal is condoned. Under explanation (b) of Section 14, the plaintiff or the applicant resisting such an appeal shall be deemed to be prosecuting a proceeding. If the six month period together with the original period for filing the appeal is not to be excluded under Section 14, the plaintiff/applicant would not get a hearing on merits for no fault of his, as he in the example given is not the appellant. Clearly therefore, in such a case, the entire period of nine months ought to be excluded. If this is so for an appellate proceeding, it ought to be so for an original proceeding as well with this difference that the time already taken to file the original proceeding, i.e. the time prior to institution of the original proceeding cannot be excluded. Take a case where the limitation period for the original proceeding is six months. The plaintiff/applicant files such a proceeding on the ninetieth day i.e. after three months are over. The said proceeding turns out to be abortive after it has gone through a chequered career in the appeal courts. The same plaintiff/applicant now files a fresh proceeding before a court of first instance having the necessary jurisdiction. So long as the said proceeding is filed within the remaining three month period, Section 14 will apply to exclude the entire time taken starting from the ninety first day till the final appeal is ultimately dismissed. This example also goes to show that the expression "the time during which the plaintiff has been prosecuting with due diligence another civil proceeding" needs to be construed in a manner which advances the object sought to be achieved, thereby advancing the cause of justice."

(emphasis supplied)

20. Fourth, as to interpretation of Section 14 of the Limitation Act, after considering the pre-existing law on that point, the Supreme Court opined-it must be interpreted extremely liberally as it furthers the cause of justice. Thus, it was observed below:

"42. Section 14 has been interpreted by this Court extremely liberally inasmuch as it is a provision which furthers the cause of justice. Thus, in Union of India v. West Coast Paper Mills Ltd., (2004) 3 SCC 458, this Court held:

> *"14. … In the submission of the learned Senior Counsel, filing of civil writ petition claiming money relief cannot be said to be a proceeding instituted in good faith and secondly, dismissal of writ petition on the ground that it was not an appropriate remedy for seeking money relief cannot be said to be 'defect of jurisdiction or other cause of a like nature' within the meaning of Section 14 of the Limitation Act. It is true that the writ petition was not dismissed by the High Court on the ground of defect of jurisdiction. However, Section 14 of the Limitation Act is wide in its application, inasmuch as it is not confined in its applicability only to cases of defect of jurisdiction but it is applicable also to cases where the prior proceedings have failed on account of other causes of like nature. The expression 'other cause of like nature' came up for the consideration of this Court in Roshanlal Kuthalia v. R.B. Mohan Singh Oberoi[(1975) 4 SCC 628] and it was held that Section 14 of the Limitation Act is wide enough to cover such cases where the defects are not merely jurisdictional strictly so called but others more or less neighbours to such deficiencies. Any circumstance, legal or factual, which inhibits entertainment or consideration by the court of the dispute on the merits comes within the scope of the section and a liberal touch must inform the interpretation of the Limitation Act which deprives the remedy of one who has a right."*
>
> *Similarly, in India Electric Works Ltd. v. James Mantosh, (1971) 1 SCC 24, this Court held:*
>
> *"7. It is well settled that although all questions of limitation must be decided by the provisions of the Act and the courts cannot travel beyond them the words 'or other cause of a like nature' must be construed liberally. Some clue is furnished with regard to the intention of the legislature by Explanation III in Section 14(2). Before the enactment of the Act in 1908, there was a conflict amongst the High Courts on the question whether misjoinder and non-joinder were defects which were covered by the words 'or other cause of a like nature'. It was to set at rest this conflict that Explanation III was added. An extended meaning was thus given to these words. Strictly speaking misjoinder or non-joinder of parties could hardly be regarded as a defect of jurisdiction or something similar or analogous to it."*
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> *(emphasis supplied)*

21. Insofar as the decisions of the Madras High Court and High Court of Punjab and Haryana in **M/s. SPK and Co. (supra)** and **M/s Arvind Fashion Limited (supra)** are concerned, they too have laid down law consistent to the decision of the Supreme Court, in **M.P. Steel (supra)**. While we may not find ourselves in perfect agreement to the expression of 'merger' used in those decisions, and may only say on rectification made by the same authority/court that order relates back to the date of the original order passed, on the meaty/fundamental issue of applicability of the underlying 'principle' of Section 14, we find ourselves in complete agreement, to those decisions.

22. Insofar as the order passed by co-ordinate bench in **Atlantis**

Intelligence Ltd. (supra) is concerned, though the issue raised therein may have been slightly different, observation made in paragraph 14(D) is pertinent. For ready reference, it reads as below:

> *"D. The principle of Section 14 of the Limitation Act which is a principle based on advancing the cause of justice would certainly apply to exclude time taken in prosecuting proceedings which are bona fide and with due diligence pursued, which ultimately end without a decision on the merits of the case."*
>
> *(emphasis supplied)*

23. However, there may survive no merit in the other submission advanced by learned counsel for the petitioner on the strength of Section 29 of the Limitation Act. With respect to that, in **M.P. Steel (supra)**, it was observed as below:

> *"28. The sheet anchor in Mukri Gopalan was Section 29(2) of the Limitation Act. Section 29(2) states:-*
>
> > *"29. Savings.— (2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of Section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 to 24 (inclusive) shall apply only insofar as, and to the extent to which, they are not expressly excluded by such special or local law."*
> > *A bare reading of this Section would show that the special or local law described therein should prescribe for any suit, appeal or application a period of limitation different from the period prescribed by the schedule. This would necessarily mean that such special or local law would have to lay down that the suit, appeal or application to be instituted under it should be a suit, appeal or application of the nature described in the schedule. We have already held that such suits, appeals or applications as are referred to in the schedule are only to courts and not to quasi-judicial bodies or Tribunals. It is clear, therefore, that only when a suit, appeal or application of the description in the schedule is to be filed in a court under a special or local law that the provision gets attracted.*
>
> *This is made even clearer by a reading of Section 29(3). Section 29(3) states:-*
>
> > *"29. Savings.— (3) Save as otherwise provided in any law for the time being in force with respect to marriage and divorce, nothing in this Act shall apply to any suit or other proceeding under any such law."*
>
> *29. When it comes to the law of marriage and divorce, the Section speaks not only of suits but other proceedings as well. Such proceedings may be proceedings which are neither appeals nor applications thus making it clear that the laws relating to marriage and divorce, unlike the law of limitation, may contain proceedings other than suits, appeals or applications filed in courts. This again is an important pointer to the fact that the entirety of the Limitation Act including Section 29(2) would apply only to the three kinds of proceedings mentioned all of which are to be filed in courts."*
>
> *(emphasis supplied)*

24. Then, as to the objection raised by learned Standing Counsel on the strength of **Hongo India (supra)** and **Glaxo Smith Kline (supra)**, those are cases that excluded applicability of Section 5 of the Limitation Act to proceedings under similar pari materia provisions of other Acts. The exclusion of principle contained in Section 5 of the Limitation Act arises not on the strength of any specific or direct exclusion offered under express provision of the Act or the Limitation Act, but by virtue of the self-contained specific scheme of limitation and condonation of delay limited (by time) provision in Section 107(1) read with Section 107(4) of the Act, as extracted above. In the first place, the period of limitation available to file appeals is three months. Second, the power to condone delay is limited and thus hedged in terms of the provisions of sub-section (4) of Section 107 of the Act, to one month.

25. Accordingly, the delay may be condoned for not more than one month. Once the power to condone delay has been specifically provided under Section 107(4) of the Act, that is a special Act, it amounts to necessary and automatic exclusion of the general principle contained in Section 5 of the Limitation Act. On that point, the decisions of the Supreme Court in **Hongo India (supra)** and **Glaxo Smith Kline (supra)** specifically hold the field. In **Hongo India (supra)**, it has been observed as below:

> *"32. As pointed out earlier, the language used in Sections 35, 35-B, 35-EE, 35-G and 35-H makes the position clear that an appeal and reference to the High Court should be made within 180 days only from the date of communication of the decision or order. In other words, the language used in other provisions makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning the delay only up to 30 days after expiry of 60 days which is the preliminary limitation period for preferring an appeal. In the absence of any clause condoning the delay by showing sufficient cause after the prescribed period, there is complete exclusion of Section 5 of the Limitation Act. The High Court was, therefore, justified in holding that there was no power to condone the delay after expiry of the prescribed period of 180 days."*
> *33...*
>
> *34...*
>
> *35. It was contended before us that the words "expressly excluded" would mean that there must be an express reference made in the special or local law to the specific provisions of the Limitation Act of which the operation is to be excluded. In this regard, we have to see the scheme of the special law which here in this case is the Central Excise Act. The nature of the remedy provided therein is such that the legislature intended it to be a complete code by itself which alone should govern the several matters provided by it. If, on an examination of the relevant provisions, it is clear that the provisions of the Limitation Act are necessarily excluded, then the benefits*

> *conferred therein cannot be called in aid to supplement the provisions of the Act. In our considered view, that even in a case where the special law does not exclude the provisions of Sections 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the court to examine whether and to what extent, the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation. In other words, the applicability of the provisions of the Limitation Act, therefore, is to be judged not from the terms of the Limitation Act but by the provisions of the Central Excise Act relating to filing of reference application to the High Court.*
>
> *36. The scheme of the Central Excise Act, 1944 supports the conclusion that the time-limit prescribed under Section 35-H(1) to make a reference to the High Court is absolute and unextendable by a court under Section 5 of the Limitation Act. It is well-settled law that it is the duty of the court to respect the legislative intent and by giving liberal interpretation, limitation cannot be extended by invoking the provisions of Section 5 of the Limitation Act.".*
>
> *37. In the light of the above discussion, we hold that the High Court has no power to condone the delay in filing the "reference application" filed by the Commissioner under unamended Section 35-H(1) of the Central Excise Act, 1944 beyond the prescribed period of 180 days and rightly dismissed the reference on the ground of limitation."*

26. However, no such implied or necessary exclusion to the general applicability of the underlying principle of Section 14 of the Limitation Act may be read in the Act, even though it remains a special Act. As summarized by the Supreme Court in **M.P. Steel (supra)**, Section 14 is a beneficial piece of legislation-to further the cause of justice where a person pursues a case with due diligence. He may not be non-suited occasioned by a mistake of seeking remedy before a wrong forum. Thus, the underlying principle of Section 14 recognizes-that it applies to persons (claiming its benefit), who may have admittedly made a mistake. Only then, the applicability of Section 14 of the Limitation Act may arise and not otherwise. As to what nature of mistake may lead to application of Section 14 of the Act, it is clear that it may be in the nature of lack of jurisdiction or defect of like nature (construed liberally). As to the wrong forum before whom, such mistake may have been committed, Section 14 is categorical. It includes in its scope, proceedings instituted before the original authority.

27. Seen in that light, an application seeking rectification of mistake was, filed by way of a remedy exits on the statute book. It lies before the authority that may have passed the order, including the Adjudication Authority. Whether such an application may be maintainable, and if maintainable, whether it may be allowed, are questions that may be answered only after conclusion of proceedings for rectification.

28. To the extent the statute creates a forum but permits exercise of its jurisdiction only in certain circumstances and not in others, it cannot be said that the application filed by the petitioner was so misconceived to begin with that it may be readily inferred therefrom-either it was not in 'good faith' or that it was not 'bona fide'. Therefore, that conclusion, if reached, would be harsh and may result in unnecessarily restricting natural full applicability of the underlying principle contained in Section 14 of the Limitation Act. That would itself obstruct the cause of justice.

29. The statutory remedy to seek rectification of our order being in addition to the statutory remedy to file an appeal, at first, limitation to seek either or both those remedies, starts running, simultaneously. If no application is filed under Section 161 of the Act to seek rectification (of a mistake in such order), upto three months, the limitation to seek rectification would expire at the end of three months. In that case, simultaneously, the normal period of limitation to file first appeal against such order would also have run continuously and concurrently and, therefore, it would also be exhausted, simultaneously. If, however, before expiry of three months, an application is filed under Section 161 of the Act, to seek rectification in that order, the running of limitation (to file appeal against such order), would be put in abeyance from the date of filing of such application, upto the date when that application is decided.

30. This leads us to the conclusion, to apply the underlying principle of Section 14 Limitation Act, wherever an application seeking rectification of mistake apparent on the face of record may be filed within time, as may have been done in the present case, the application of the underlying principle of Section 14 Limitation Act, may not be examined with a microscope, any further. To the extent that application is filed 'bona fide' in 'good faith' and is pursued, that principle would apply, without doubt. The only exception to that principle may be-where the application seeking rectification of a mistake is itself filed beyond the period of limitation prescribed under Section 161 of the Act. There no such benefit may arise. Here, that application was filed within the time prescribed under the said provisions.

31. To the extent, respondent no. 3 rejected that application, we find occasion arose to the petitioner to claim benefit of Section 14 of the Limitation Act, occasioned by the mistake on part of the petitioner, in filing that application. Consequentially, and without exception, the duration of that application (filed by the petitioner seeking rectification of

mistake in the adjudication order dated 23.4.2024), having remained pending, has to be excluded from the limitation to file appeal, as running of limitation remained in abeyance, during pendency of application filed under Section 161 of the Act. Here, that period must be excluded. Thus, the appeal was filed within two months and nine days from the date of the ex-parte adjudication order. The period of limitation being three months, the appeal filed was well within limitation.

32. Consequently, the writ petition is **allowed**. Accordingly, the order dated 23.04.2024 is **set aside** and the appeal is restored to its original number and status. We expect that the same would be dealt with and decided strictly in accordance with law on merits, expeditiously.

33. No order as to costs.

(Vivek Saran,J.) (Saumitra Dayal Singh,J.)

December 12, 2025
Anurag/-