HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Civil Writ Petition No. 14331/2025

M/s Akash Construction, A Partnership Firm Having Its Principal Place Of Business At Sanchore, Jalore (Raj.) Through Its Partner Rajjak Sindhi S/o Ibrahim Bhai Noorahmad Sindhi, Age About 47 Years, R/o 2-5-64 Unchalovas, Kheralu, Mehsana, Gujarat-384325

----Petitioner

Versus

1. The State Of Rajasthan, Through The Secretary To The Government, Commercial Tax Department, Jaipur
2. The Appellate Authority State Tax, Jodhpur.
3. The Assistant/ Deputy/ Joint Commissioner, Ward-1, Circle-Sanchore, Pali
4. The Commissioner, State Tax, Rajasthan, Jaipur.

----Respondents

For Petitioner(s)	:	Vishal Singhal
For Respondent(s)	:	Mahaveer Bishnoi, AAG

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE SANJEET PUROHIT

Judgment

09/12/2025

1. The petitioner has filed the instant writ petition claiming the following reliefs:

> *" It is, therefore, most humbly and respectfully prayed that this writ petition may kindly be allowed. By an appropriate writ order or direction:-*
> *1. That the impugned Order-in-Appeal No. 171/GST/JDR/25-26 dated 26.05.2025 (ANNEXURE-5) passed by the Appellate*

Authority, State Tax, Jodhpur be declared illegal and be quashed and set aside;

2. That the impugned Order-in-Original No. ZD080924024233I dated 11.09.2024 passed by the Assistant/Deputy/Joint Commissioner, Ward-I, Circle-Sanchore, Pali be also declared illegal and be quashed and set aside;

3. That the respondents may kindly be restrained from taking any coercive action against the petitioner pursuant to the aforesaid impugned orders;

4. That a writ in the nature of mandamus may kindly be issued directing the Appellate Authority to decide the petitioner's appeal on merits after condoning the delay; and

5. Alternatively, that a writ in the nature of mandamis may kindly be issued directing the authorities to re-examine the entire matter afresh in accordance with law and after providing the adequate opportunity if hearing of the petitioner.

6. Any other relief which this Hon'ble Court deems just and proper in favor of the petitioner, may kindly be granted; and

7. The cost of the writ petition be allowed in favour of the petitioner."

2. Brief facts leading to the instant controversy are that the petitioner is a partnership firm engaged in construction activities and is a registered taxpayer under the Rajasthan Goods and Services Tax Act, 2017. The petitioner was subjected to adjudication proceedings culminating in Order-in-Original No. ZD080924024233 dated 11.09.2024, passed by the Assistant/Deputy/Joint Commissioner, Ward-I, Circle-Sanchore, Pali, whereby a demand of ₹65,19,288/- was raised against the petitioner on account of alleged excess utilisation of Input Tax Credit amounting to ₹48,23,718/- for the period April 2022 to March 2023.

2.1. Being aggrieved by the aforesaid adjudication order, the petitioner preferred a statutory appeal before the Appellate

Authority, State Tax, Jodhpur, bearing Appeal No. AD0803250287234 dated 18.03.2025, along with an application seeking condonation of delay, inter alia, on the ground that the adjudication order was not duly communicated and that no intimation was received on the registered email address of the petitioner.

2.2. It is the case of the petitioner that knowledge of the adjudication order was acquired only on 13.02.2025, upon receipt of information regarding issuance of DRC-13 proceedings against its GSTIN, whereafter the petitioner immediately accessed the GST portal and filed the appeal without any further delay.

2.3. The Appellate Authority, however, vide Order-in-Appeal No. 171/GST/JDR/25-26 dated 26.05.2025, dismissed the appeal as time-barred, without entering into the merits of the matter and without accepting the explanation furnished for condonation of delay, which has led to the filing of the present writ petition.

3. Learned counsel appearing on behalf of the petitioner submits that the impugned Order-in-Appeal dated 26.05.2025 is ex facie illegal, arbitrary and unsustainable in law, inasmuch as the Appellate Authority has dismissed the statutory appeal solely on the ground of limitation, without considering the application for condonation of delay on its own merits and without recording cogent reasons.

3.1 It is contended that the delay in filing the appeal was neither deliberate nor attributable to any negligence on the part of the petitioner. Learned counsel submits that the adjudication order dated 11.09.2024 was never duly communicated to the petitioner, despite the petitioner having a registered email address for GST-related correspondence, and no email intimation of issuance of DRC-07 was ever received.

3.2. Learned counsel further submits that the petitioner became aware of the adjudication order only on 13.02.2025, upon information received regarding issuance of DRC-13 proceedings against the petitioner’s GSTIN. Immediately thereafter, the petitioner accessed the GST portal and filed the appeal expeditiously along with a detailed application seeking condonation of delay.

3.3. It is argued that the Appellate Authority has mechanically computed limitation from the date of upload of the order on the GST portal, without examining the plea of non-service and without appreciating that effective service under Section 169 of the RGST Act must be real, meaningful and not illusory.

10. Learned counsel submits that the Appellate Authority failed to exercise jurisdiction vested in it under Section 107(4) of the RGST Act, which empowers it to condone delay upon sufficient cause being shown. The impugned appellate order does not reflect any application of mind to the explanation furnished by the petitioner.

3.4. It is further contended that the original adjudication order dated 11.09.2024 itself is vitiated, having been passed without affording adequate opportunity of hearing, in clear violation of Section 75(4) and 75(5) of the RGST Act, as well as the principles of natural justice.

3.5. Learned counsel submits that dismissal of the appeal on a technical ground of limitation, without examining the merits of the case, has resulted in confirmation of a demand of ₹65,19,288/-, causing serious civil consequences to the petitioner and infringing the petitioner's rights under Articles 14, 19(1)(g) and 21 of the Constitution of India.

3.6. It is urged that settled law mandates that procedural technicalities should not be permitted to defeat substantial justice, particularly where the explanation for delay is bona fide and the appellant stands to suffer grave prejudice.

3.7. On the aforesaid grounds, learned counsel prays that the impugned orders be quashed and set aside and the matter be remanded to the Appellate Authority for fresh consideration of the appeal on merits, after condoning the delay.

4. Per contra, learned counsel appearing on behalf of the respondents opposes the writ petition and submits that the same is devoid of merit and deserves to be dismissed.

4.1. It is submitted that the adjudication order dated 11.09.2024 was validly uploaded on the GST portal, and in terms of Section 169 of the Rajasthan Goods and Services Tax Act, 2017, such upload constitutes deemed service upon the assessee. Once the order is made available on the portal, the taxpayer is deemed to have knowledge thereof and limitation begins to run from the said date.

4.2. Learned counsel submits that the petitioner, being a registered taxpayer under the GST regime, is expected to regularly access and monitor the GST portal, which is the primary mode of statutory communication. Failure to do so cannot be a ground to seek condonation of delay as a matter of right.

4.3. It is further contended that the statutory scheme under Section 107 of the RGST Act prescribes a strict limitation period for filing appeals, and the Appellate Authority can condone delay only within the outer limit prescribed by statute. Beyond such period, the Appellate Authority becomes functus officio and lacks jurisdiction to entertain the appeal.

4.4. Learned counsel submits that the Appellate Authority has rightly dismissed the appeal as time-barred after considering the statutory limitation and that no infirmity can be attributed to the impugned Order-in-Appeal dated 26.05.2025.

4.5. It is also argued that the petitioner has sought to challenge not only the appellate order but also the Order-in-Original dated 11.09.2024, despite having an efficacious statutory remedy available under the RGST Act. The present writ petition, therefore, suffers from misuse of writ jurisdiction and bypassing of the statutory appellate framework.

4.6. Learned counsel submits that the plea of violation of principles of natural justice is factually incorrect, as sufficient opportunity was afforded during adjudication proceedings and notices were issued in accordance with law. Mere non-appearance of the petitioner cannot invalidate the proceedings.

4.7. It is further contended that the demand raised pertains to excess utilisation of Input Tax Credit, which is a matter involving factual adjudication and verification of records, and such issues ought not to be examined in exercise of writ jurisdiction under Article 226 of the Constitution of India.

4.8. Learned counsel submits that the petitioner has failed to demonstrate any exceptional circumstance warranting interference by this Hon'ble Court and that the writ petition does not fall within the recognized exceptions to the rule of alternate remedy.

5. Having considered the rival submissions and the material placed on record, the writ petition deserves to be allowed, albeit with certain clarifications so that the mandate of law is not defeated.

5.1. The statutory scheme under the Rajasthan Goods and Services Tax Act, 2017 undoubtedly recognises deemed service through electronic modes, including upload of orders on the GST portal, as a valid mode of communication. Such provision is integral to the digital tax architecture and cannot be diluted, lest the discipline of statutory timelines and certainty in fiscal administration be undermined. A registered taxpayer is expected to remain vigilant and regularly access the portal.

5.2. However, the doctrine of deemed service cannot be applied mechanically or punitively, particularly at the stage of condonation of delay, where the statute itself vests discretion in the Appellate Authority to examine whether sufficient cause has been shown. The power under Section 107(4) of the RGST Act is not illusory; it is intended to balance statutory discipline with fairness and justice.

5.3. In the present case, the explanation offered by the petitioner that it acquired actual knowledge of the adjudication order only upon initiation of recovery proceedings may not negate deemed service in strict terms, but it certainly constituted a relevant and material circumstance which required consideration while deciding the application for condonation of delay. The Appellate Authority, instead of undertaking such examination, dismissed the appeal solely on limitation, without recording reasons addressing the explanation offered.

5.4. It is equally significant that the consequence of such dismissal is not merely procedural. The impugned orders have resulted in confirmation of a substantial tax demand, exposing the petitioner to coercive recovery proceedings. The petitioner is a partnership firm engaged in construction activity, and enforcement of such demand, without adjudication on merits, has a direct bearing on its ability to carry on business, affecting not only the partners but also employees and persons dependent on the enterprise for their livelihood.

5.5. Fiscal statutes, while required to be implemented with rigour, cannot be interpreted in a manner that sacrifices substantive justice at the altar of technicality, especially when the statute itself provides a window for condonation. Denial of appellate scrutiny in such circumstances would amount to shutting the doors of justice, resulting in civil consequences disproportionate to the procedural lapse alleged.

5.6. Therefore, while this Court upholds the legal principle that upload of orders on the GST portal constitutes valid deemed service, the Appellate Authority was nevertheless obligated to consider the petitioner's explanation for delay in a reasoned and judicious manner. Failure to do so vitiates the impugned appellate order.

6. Consequently, the writ petition is ***allowed*** in the following terms:

6.1. The Order-in-Appeal No. 171/GST/JDR/25-26 dated 26.05.2025 passed by the Appellate Authority, State Tax, Jodhpur is quashed and set aside.

6.2. The matter is remanded to the Appellate Authority, State Tax, Jodhpur, with a direction to reconsider the petitioner's appeal afresh, strictly in accordance with law, after examining the application for condonation of delay on its own merits and after affording adequate opportunity of hearing to the petitioner.

(SANJEET PUROHIT),J **(DR.PUSHPENDRA SINGH BHATI),J**

1-Zeeshan/-