

**Medical reason is a valid reason for condoning delay in filing an Appeal before the Appellate Authority**

The Hon'ble Madras High Court in the case of *M/s. Great Heights Developers LLP v. Additional Commissioner Office of the Commissioner of CGST & Central Excise, Chennai [Writ Petition No. 1324 of 2024 dated February 01, 2024]*, allowed the appeal before the Appellate Authority and held that if the Assessee demonstrates that the delay in filing appeal was due to valid mitigating circumstances such as medical condition then the Appellate Authority can condone delay and consider appeal on its merits.

**Facts:**

M/s. Great Heights Developers LLP (**"the Petitioner"**) was served a Show Cause Notice (**"the SCN"**) pursuant to which an Assessment Order dated August 14, 2023 (**"the Impugned Order"**) issued imposing interest and penalty under Section 73(9) and 73(7) of the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**). The Impugned Order was received by the Petitioner on August 16, 2023. Accordingly, the appeal should have been filed within 90 days thereof under sub-section (1) of Section 73 of the CGST Act. However, the appeal could not be filed in time because the Petitioner was diagnosed with septic shock and could not follow up with the consultant. As a result, the time limit for filing an appeal with an application to condone delay expired on December 16, 2023.

Hence, aggrieved by the Impugned Order, the present writ was filed by the Petitioner.

**Issue:**

Whether medical reason is a valid reason for condoning delay in filing an Appeal before the Appellate Authority?

**Held:**

The Hon'ble Madras High Court in ***Writ Petition No. 1324 of 2024*** held as under:

- Noted that, under Section 107 of the CGST Act, the Appellate Authority does not have the power to condone delay beyond 120 days i.e., sub-section (4) of Section 107 of the CGST Act, the appeal can be filed within the period of three months or six months, as the case may be, allow it to be presented within a further period of one month. In the current case, the period of further delay is only 24 days and the Petitioner has provided cogent reasons to explain such delay. It is pertinent to note that the Petitioner has paid the entire tax liability and the proposed appeal is limited to penalty and interest.
- Held that, the Appellate Authority receive and dispose of the appeal on merits if the appeal is received within a maximum period of ten days from the date of receipt of a copy of this order.
- Hence, the writ was disposed of.

**Our Comments:**

Section 107 of the CGST Act, talks about “*Appeals to Appellate Authority*”. According to Section 107(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.

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