

## ***GST Appellate Authority shall condone delay in Filing Appeal due to COVID-19: The Hon'ble High Court, Orissa***

### **Fact of the Case**

The Adjudicating Authority passed the impugned order on 14th August, 2020 and uploaded it on the same day. It is not also in dispute that the last date for the filing of the appeal against the said order was 17th November, 2020. It is further admitted that the Petitioner, M/s. Shree Udyog did, in fact, file the appeal on 13th November, 2020 electronically, accompanied by a downloaded copy of the order appealed against.

Under Rule 108 (3) of the OGST Rules, 2017, the appeal had to be accompanied by a certified copy of the order appealed against. This had to be submitted within seven days of the filing of the appeal. Under the proviso to Rule 108(3) if the certified copy is submitted within seven days of the filing of the appeal, then the date of filing of the appeal would be the date of the issue of the provisional acknowledgment. If it is filed after seven days, the date of filing of the appeal would be the date of submission of such certified copy.

The Petitioner could furnish a certified copy of the order of appeal against only on 9th March, 2021, i.e., more than three months and 25 days after the filing of the appeal. According to the Appellate Authority, i.e., the Additional Commissioner of State Tax (Appeal), Balasore, this delay could not be condoned and, therefore, the appeal itself was dismissed as not having been preferred in time.

Mr. V. Narasingh, counsel for the Petitioner, points out that while the appeal was accompanied by the downloaded printed copy of the order appealed against at the time of filling of the appeal, it was not accompanied by the certified copy thereof at that stage since the Lawyer who had filed the appeal was in self quarantine as he had come into contact with a client who had tested positive for Covid-19.

### **Decision of the Case**

The division bench headed by the Chief Justice observed that the appellant had to show the Appellate Authority "the appellant was prevented by sufficient cause from presenting the appeal within a period of three months from the date of the impugned order." In the present case, it is not in dispute that the Petitioner in fact filed the appeal within a period of three months. It is only on the account of the appeal not being accompanied by the certified copy of the order appealed against, within a period of seven days that it has been rejected on the ground of delay.

The court held that the impugned order dated 10th March, 2021 of the Appellate Authority rejecting the appeal on the ground of delay, is hereby set aside. The appeal is now restored to the file of the Additional Commissioner of State Tax (Appeal), Balasore and is directed to be listed there for directions on 5th July, 2021. The Appellate Authority will proceed to decide the appeal on merits and endeavour to dispose of it by a reasoned order in accordance with law not later than 4th October, 2021.

***The Orissa High Court while quashing the order held Goods and Service Tax (GST) Appellate Authority shall condone delay in filing appeal due to COVID-19.***