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IMPORTANT GST CASE LAW

JUDGEMENT

Bona fide proceeding for Rectification of Order will save the GST Appeal from Limitation Bar

In Case Of	Issued By	Order Date
Debabrata Bhowmick	High Court of Gauhati	24th June 2026

Order No
Writ Petition (C) No. 2332/2026

OBSERVATIONS

- The petitioner, proprietor of M/s Harekrishna Drugs, was **subjected to a proceeding culminating into an Order-in-Original dated 03.01.2025 confirming demand of ITC, interest and penalty**, passed by Adjudicating Authority.

- Instead of filing an appeal u/s 107, the **petitioner filed an application for rectification of mistake under Section 161 on 08.03.2025, contending that disallowance of ITC was based on an apparent error** and that the supplier had filed returns belatedly.

- The **rectification application was rejected on 24.04.2025 on a ground that reason cited in the application was not found satisfactory**. Thereafter, the **petitioner filed appeal under Section 107 on 23.05.2025 challenging sustainability of both the Order-in-Original as well as Order-in-Rectification Application**.

- Appellate Authority **rejected the appeal as time-barred by computing limitation from the date of Order-in-Original and by treating the appeal as filed beyond the normal three-month period** and further condonable period of one month.

JUDGEMENT

- The Hon'ble Gauhati High **Court held that the time spent in pursuing rectification proceeding under Section 161 can be excluded while computing limitation for filing appeal under Section 107**, provided such rectification proceedings were pursued with due diligence and good faith.

- The **Court applied the principles of Section 14 of the Limitation Act and held that although Section 5 of the Limitation Act cannot extend GST appeal limitation beyond the statutory cap**, exclusion of time for bona fide proceedings can still apply

- After excluding 48 days spent in rectification proceeding, the **appeal was not within the normal limitation period, but it was within the further condonable period under Section 107(4).**

- The **Court held that absence of a separate delay condonation application is a curable defect**. Appellate Authority ought to have given the taxpayer at least one opportunity to file such application and explain the delay before rejecting the appeal.

- The **appellate order rejecting the appeal on limitation was therefore set aside** and the matter was remanded to Appellate Authority for fresh consideration.

TAKEAWAYS

- **Exclusion of time spent in rectification proceeding is not automatic**. The taxpayer must show that rectification was pursued with due diligence and good faith.
- The judgment is also significant on the doctrine of merger. **The Court reiterated that where an appeal is dismissed on limitation without entering into merits, the original order does not merge with the appellate order**.
- The Court did not treat rejection of rectification under Section 161 as a fresh starting point of limitation. Instead, **it granted relief by excluding bona fide time spent in rectification proceedings.**

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