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By Nidhi, Advocate



Judgment No.: 060
Dt.: 31-01-2024



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Judgment Deals With

Section/Rule	Section 107
Authority	Allahabad High Court
Case Name	M/s. Garg Enterprises VS State Of U.P.
Dated	19 th January, 2024

Brief Facts:

The petitioner is aggrieved by the order dated 18.01.2022 passed by the appellate authority under Section 107 of CGST Act, 2017 whereby the appeal filed by the petitioner was dismissed on the ground that the same was time barred as it was filed beyond the period of 4 months.

In the order impugned, the appellate authority has pointed out that the order impugned has been passed on 02.08.2019, whereas the appeal was filed on 27.12.2021, that is, after the period of more than 28 months and way beyond the time prescribed under Section 107 of the Act.

Findings & Decision of the Court:

Perusal of the record shows that the appeal was filed beyond time and when there is no dispute with regard to filing of the appeal beyond the time prescribed, **the Court under the extraordinary jurisdiction cannot interfere with the appellate authority's order as the application of Limitation Act, 1963 does not apply to Section 107 of the CGST Act.**

The CGST Act is a special statute and a self-contained code by itself. Section 107 of the Act has an inbuilt mechanism and has impliedly excluded the application of the Limitation Act. It is trite law that Section 5 of the Limitation Act, 1963 will apply only if it is extended to the special statute. Section 107 of the Act specifically provides for the limitation and in 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.

Accordingly, one cannot apply Section 5 of the Limitation Act, 1963 to the aforesaid provision. Thus, the petition was dismissed.

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