

Caught in Time - Understanding the Scope of the Limitation Act in GST Appeals

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The interplay between the Central Goods and Services Tax Act, 2017 ('CGST Act') and the Limitation Act, 1963 ('Limitation Act') raises a crucial legal question:

Can Section 5 of the Limitation Act, which provides for the admission of appeals or applications after the prescribed period, be invoked for filing GST appeals under Section 107 of the CGST Act?

In this article, we explore this intricate issue, analyzing the statutory framework, judicial precedents and existing legal ambiguities.

Context and Legal Framework

Section 107 of the CGST Act outlines the procedure for filing appeals before the Appellate Authority. It mandates that an aggrieved person may appeal against any decision or order passed by an Adjudicating Authority within three months from the date of communication of such decision or order. However, the Appellate Authority may condone a delay of up to one month beyond this period, upon sufficient cause. The key question arises regarding appeals that couldn't be filed within the overall four-month window.

Exploring the Interplay of Section 5 read with Section 29 of the Limitation Act

The Limitation Act holds significant importance within Indian law, providing mechanisms to address delays in legal proceedings. Parties often turn to Sections 5 r.w. 29 of the Limitation Act to file appeals after the prescribed period under the respective statute has elapsed. It permits the extension^[1] of filing periods when the appellant or applicant can demonstrate sufficient cause for the delay, thereby acting as a safeguard against undue prejudice caused by strict adherence to timelines.

The contentious issue arises when Section 5 of the Limitation Act is considered alongside Section 107 of the CGST Act, particularly in seeking condonation for delays in filing appeals beyond four months.

Precedents and Judicial Interpretations: Section 5 of the Limitation Act

Application of Section 5 of the Limitation Act with Section 107 of the CGST Act

The Hon'ble Calcutta High Court in the case of **S. K. Chakraborty and Sons vs. Union of India** [2], held that the Limitation Act's provisions can be applied alongside the CGST Act. The absence of an explicit exclusion for the applicability of the Limitation Act under the CGST Act led to this conclusion. The court emphasized that Section 107 of the CGST Act does not expressly exclude Section 5 of the Limitation Act. As a result, the court permitted the application of Section 5 of the Limitation Act in conjunction with Section 107 of the CGST Act. The relevant extract from the judgment is provided below:

"19. ... "Since Section 107 does not have a non-obstante clause rendering Section 29(2) of the Act of 1963 non-applicable. In absence of specific exclusion of Section 5 of the Act of 1963 it would be improper to read an implied exclusion thereof. Moreover, Section 107 in its entirety has not expressly stated that Section 5 of the Act of 1963 stands excluded.

20. Therefore, in our view, since provisions of Section 5 of the Act of 1963 have not been expressly or impliedly excluded by Section 107 of the Act of 2017 by virtue of Section 29 (2) of the Act of 1963, Section 5 of the Act of 1963 stands attracted. ..."

Building on this precedent, the Hon'ble Calcutta High Court, in subsequent cases[3], continued to endorse the application of Section 5 of the Limitation Act alongside Section 107 of the CGST Act. Their stance underlined the absence of a non-obstante clause in Section 107, further solidifying their interpretation.

Contrarily, the Hon'ble Allahabad High Court in the case of **Jadav Scrap Traders Vs. Additional Commissioner**[4], took a firm stance against the applicability of Section 5 of the Limitation Act. The court asserted that the CGST Act's provisions should be interpreted independently and explicitly, implying that extensions beyond the specified period are not permissible under Section 5 of the Limitation Act and observed:

"12. Tax statutes like the GST Act have a comprehensive framework with specific limitation provisions designed to expedite tax-related matters. Section 107 of the CGST Act operates as a complete code, explicitly defining the limitation periods for filing appeals and implicitly excluding the application of general limitation provisions such as Section 5 of the Limitation Act. They further ruled that The CGST Act's provisions should be read independently and explicitly, implying that extensions beyond the specified period are not permissible under Section 5 of the Limitation Act. ..."

Several other judgments by various High Courts[5] support this view, affirming that the provisions of the CGST Act should be interpreted independently. It provides that the timelines established by Section 107 are self-contained and absolute, leaving no scope for extension through Section 5 of the Limitation Act. This interpretation is rooted in the principle that a specialized statute like the CGST Act, with detailed and specific procedural rules, should not be supplemented by general statutes unless expressly provided.

Therefore, while the Calcutta High Court stands alone in its favorable interpretation of applying Section 5 of the Limitation Act in filing GST appeals, other High Courts have taken a contrasting stance.

Application of Section 5 of the Limitation Act with Other Tax Laws

Regarding the application of Section 5 of the Limitation Act with other tax laws, the Hon'ble Supreme Court[6], under the Central Excise Act, 1944, did not permit the rescue of taxpayers who missed the deadline for filing an appeal.. The Court stressed the importance of respecting legislative intent and held that liberal interpretations to extend limitation periods under specific tax laws would undermine explicit legislative provisions and objectives. Therefore, courts are obligated to strictly adhere to prescribed timelines, ensuring the functionality and integrity of the legislative framework.

Several other judgments[7] support this strict interpretation, asserting that specific tax laws must be strictly interpreted, and their prescribed timelines adhered to without resorting to the general provisions of the Limitation Act to extend these periods.

Application of Section 5 of the Limitation Act with Non-Tax Laws

Regarding the application of Section 5 of the Limitation Act with non-tax laws, in statutes such as the

Code of Criminal Procedure, 1973^[8], and the Insolvency and Bankruptcy Code, 2016^[9], courts on multiple occasion have utilized the Limitation Act to extend filing timelines. Courts have consistently sided with appellants in these cases, granting extensions beyond stipulated timelines in their respective statutes. Notably, these statutes, akin to the GST Act, are self-contained Acts. Despite this, courts have deemed the provisions of the Limitation Act applicable, stressing the need for flexibility in certain circumstances to uphold justice.

However, exceptions exist, as evidenced by a verdict under the Electricity Act, 2003^[10], where specific provisions prevailed over the general provisions of the Limitation Act. Here, the court rejected the application of Section 5 of the Limitation Act, emphasizing the priority of the Electricity Act's provisions and the necessity for strict adherence to its prescribed timelines. This case highlights that while the Limitation Act may apply to various statutory laws, it does not necessarily supersede specific provisions within individual statutes, especially when they are deemed comprehensive and self-contained.

The Debate Still Continues

The question of whether the Limitation Act can be invoked to extend the time for filing appeals under Section 107 of the CGST Act remains legally contentious. While the Hon'ble Calcutta High Court has permitted the application of Section 5 of the Limitation Act, other High Courts have ruled that the CGST Act, being a self-contained code, implicitly excludes such extensions.

The Supreme Court's rulings under the Central Excise Act emphasize strict adherence to specific tax statutes without invoking the Limitation Act. Similarly, judgments under various non-tax laws show mixed approaches, with some courts allowing flexibility and others enforcing strict timelines.

Given the judicial trend towards adhering strictly to the CGST Act's timelines, taxpayers should approach extensions cautiously. While some judicial support exists for applying the Limitation Act, the predominant view limits its scope in extending CGST Act deadlines. Taxpayers must navigate this complex landscape carefully, considering case-specific nuances and judicial trends to justify any delay.

^[1] Depending upon the type of litigation, different periods of limitations are prescribed under the Schedule to the Limitation Act

^[2] [\[TS-663-HC\(CAL\)-2023-GST\]](#)

^[3] Arvind Gupta Vs. Assistant Commissioner of Revenue State Taxed; M/s. Jalajoga Vs. The State of West Bengal & Ors. [\[TS\(DB\)-GST-HC-2024-820\]](#); Surya Prakash Mahato Vs. Deputy Commissioner of State Tax, Bally & Salkia Charge & Ors.

^[4] [\[TS\(DB\)-GST-HC\(ALL\)-2024-256\]](#)

^[5] Abhishek Trading Corporation Vs. Commissioner Appeals [\[TS\(DB\)-GST-HC\(ALL\)-2024-48\]](#); Garg Enterprises Vs. State of U.P. [\[TS-29-HC\(ALL\)-2024-GST\]](#); Ramanujan Venkatesan Vs. Joint Commissioner

(Appeals-II) [\[TS\(DB\)-GST-HC\(MAD\)-2023-20\]](#); Shree Krishna Hot Dip Galvanizers Vs. State of Karnataka

[\[6\]](#) Commissioner of Customs & Central Excise Vs. Hongo India (P) Ltd.

[\[7\]](#) Assistant Commissioner (CT) LTU Vs. Glaxo Smith Kline Consumer Health Care Ltd. [\[TS-264-SC-2020-VAT\]](#); Singh Enterprises Vs. Commissioner of C. Ex., Jamshedpur

[\[8\]](#) Mohd. Abaad Ali and Ors. Vs. Directorate of Revenue Prosecution Intelligence

[\[9\]](#) Axis Bank Limited Vs. Naren Seth and Ors.

[\[10\]](#) Suryachakra Power Corporation Limited Vs. Electricity Department and Ors.