

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) 593/2026
CM(1521/2026).

NEW KABADY SHOP.

Through: Mr. Vikas Malik, Advocate with
Mr. Mushtaq Dar, Advocate

...Petitioner (s)

VERSUS

STATE TEXES DEPARTMENT TH. ITS COMMISSIONER.

Through: Ms. Maha Majeed, Assisting Counsel.

...Respondent(s)

CORAM:

HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE.

HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER (oral)

02-06-2026

01. The petitioner has challenged Order dated 24th of June, 2025 passed by the Appellate Authority, Sales Tax Department, Kashmir Division, Srinagar, whereby the appeal filed by the petitioner under Section 107 of the Goods and Services Tax, Act through online mode on 6th of June, 2025 against Demand Order No. ZD010225002391A passed by the Assessing Authority, Circle, Budgam, Kashmir, on 5th of February, 2025, came to be rejected on the ground that the same had not been filed within the prescribed period of limitation under the GST Act.

02. Heard learned counsel for the parties and perused record of the case.

03. It is not in dispute that the appeal against Order dated 5th of February, 2025 passed by the Assessing Authority was filed by the petitioner before the Appellate Authority on 6th of June, 2025. As per the provisions contained in

Section 107 (1) of the GST Act, an appeal against an order passed under the said Act by the adjudicating Authority can be made before the Appellate Authority within a period of three months from the date on which the said decision or order is communicated to the aggrieved person. Sub-section (4) of Section 107 of the Act, however, vests jurisdiction with the Appellate Authority to condone the delay in presenting the appeal to the extent of a further period of one month, meaning thereby, that beyond the said period of one month, the Appellate Authority does not have the jurisdiction to condone the delay in filing the appeal.

04. In the present case, the petitioner has filed the appeal after the expiry of the prescribed period of three months plus the further period of one month which is eligible to be condoned by the Appellate Authority. In fact, there was delay of only one day in filing the appeal in the present case. The question that arises for consideration is as to whether, in such circumstances, this Court can come to the rescue of the petitioner.

05. In the above context, reliance is being placed upon the judgment delivered by this Court in case titled “***M/s Multi Trading Agencies, Drangbal Vs. UT of Jammu and Kashmir & Ors***” bearing WP(C) No. 1898 of 2024 decided on 17th of October, 2024, wherein it has been held that the prohibition contained in Section 107(4) of the Act of 2017 to condone the delay beyond one month cannot come in the way of the Constitutional Courts in exercising its extraordinary jurisdiction to render substantial justice. The Court further observed that while the statutory prohibition is a strong consideration to be kept in mind, yet it does not bar the jurisdiction of the High Court to condone the delay if it is of the opinion that application of the delay barring statute would result in gross injustice.

06. A similar view has been taken by this Court in case titled “*M/s Parshotam Electronics vs. State Taxes Officer, Circle-Q, Jammu*”, bearing WP(C) No. 2909/2024, decided on 29th of September, 2025.

07. Adverting to the facts of the present case, as already stated hereinbefore, there was only one day’s delay in filing the appeal beyond the prescribed extendable period of limitation. In the application made by the petitioner before the Appellate Authority, it has been pleaded that the sister of the petitioner had passed away, as a result whereof he could not file the appeal within the prescribed period of limitation.

08. Having regard to the aforesaid assertion of the petitioner coupled with the fact that there was a delay of only one day in filing the appeal, this Court is of the opinion that in case appeal of the petitioner is not heard on merits, it would work harshly against him. The petitioner needs to be given a chance to present his case before the Appellate Authority in order to meet the ends of justice.

09. Accordingly, the present petition is *allowed* and the impugned order passed by the Appellate Authority is set aside and the delay in filing the appeal is condoned. The matter is remanded to the Appellate Authority for fresh consideration and decision on merits in accordance with law.

10. Disposed of along with connected CM.

(Sanjay Parihar)
Judge

(Sanjay Dhar)
Judge

SRINAGAR
02-06-2026
Showkat Khan