

HIGH COURT OF SIKKIM : GANGTOK
Record of Proceedings

IA No. 03/2025
IN
Tax App. No.117/2025 (Filing No.)

COMMISSIONER OF CENTRAL GOODS AND
SERVICES TAX AND CENTRAL EXCISE

APPLICANT
/APPELLANT (S)

VERSUS

M/S INTAS PHARMA LTD.

RESPONDENT (S)

For Applicant/Appellant: Ms. Sangita Pradhan, Deputy Solicitor General of India with Ms. Sittal Balmiki and Ms. Natasha Pradhan, Advocates.

For Respondent : Ms. Gita Bista, Ms. Pratikcha Gurung and Mr. Deepan Khatiwada, Advocates.

Date: 12/11/2025

CORAM:
HON'BLE MR. JUSTICE BISWANATH SOMADDER, CHIEF JUSTICE
HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

...

ORDER : (per the Hon'ble, the Chief Justice)

This is an application taken out by the Commissioner of Central Goods and Services Tax and Central Excise, Siliguri Commissionerate, seeking condonation of delay in respect of Tax Appeal No. 117 of 2025 (Filing No.), invoking the provisions of section 5 of the Limitation Act, 1963.

In order to justify the delay, following statement made by the applicant/appellant appears under paragraph 4 of the application:-

".....
4. The aforementioned Impugned Final Order was passed on 21st November, 2024. As a regular practice, certified copies of Final Orders are sent from the office of Learned Tribunal. Therefore, the certified copy of order has never been applied by the office of the applicant/appellant. Accordingly, the certified copy of the Order dated 21st November, 2024 was received by the office of the appellant on 09.12.2024. Further, the date of uploading of the Final Order is not available on the official website of Learned Tribunal. On further enquiry in the office of Learned Tribunal, it was mentioned that the Order copy are uploaded usually on time.
....."

If the impugned order passed by the learned Tribunal was uploaded within time, the applicant/appellant was duty bound to have knowledge of the same and

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taken immediate steps to prefer an appeal in the event he was aggrieved by the said order passed by the learned Tribunal. Instead of showing due diligence, the applicant/appellant has demonstrated utter negligence and callousness, which is palpable from the facts of the present case. It is only the observations made by this Court in the order dated 28th October, 2025, which made the applicant/appellant realize this crucial fact. This appears from the statement made in the paragraph-5 of the application, which reads as follows:-

".....

5. In view of the observations made by this Hon'ble Court in Order dated 28.10.2025, if the impugned order duly uploaded in the official website of the Ld. Tribunal, it would have entered public domain and was not required to be physically received by the applicant/appellant. Computation of delay would then have to be made accordingly.

....."

The impugned order was passed on 21st November, 2024, and the appeal was preferred on 29th August, 2025. It is, therefore, the apparent that the appeal was filed 100 days beyond the prescribed time-frame as provided in the statute for the purpose of preferring the statutory appeal. This could have been easily avoided had the applicant/appellant shown due diligence and interest in the matter in preferring the appeal within time.

Under ordinary circumstances, we would not be inclined to allow the instant section 5 application considering the facts and circumstances of the instant case. However, since the revenue interest of Union of India is involved, we are inclined to be a little lenient in the matter of considering the delay on the part of the appellant in preferring the statutory appeal.

Considering the facts and circumstances of the instant matter in its entirety, we are of the view that sufficient cause has been shown by the applicant/appellant for the purpose of seeking condonation of delay in preferring the statutory appeal from the final order dated 21st November, 2024, passed by the learned Customs, Excise and Service Tax Appellate Tribunal, Eastern Zonal Bench, Kolkata.

The application is accordingly allowed.

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Office is directed to allot regular number to the appeal.

Let the appeal appear under an appropriate heading on 20th November, 2025.

(Meenakshi Madan Rai)
Judge

(Biswanath Somadder)
Chief Justice

jk/ds/ami