

M/s Brand Protection Services Private Limited v. State of Bihar and others

Case number: Civil Writ Jurisdiction Case No. 14957 of 2024

Citation: 2025(2) eILR(PAT) HC 48

Decision date: 4 February 2025

Section 107 appeal limitation runs in calendar months; restoration does not itself condone delay

Court: Patna High Court

Bench: Hon'ble Mr. Justice Rajeev Ranjan Prasad and Hon'ble Mr. Justice Ramesh Chand Malviya

Decision stage: Final disposal of the writ on the calendar-month limitation issue; appeal restored for the appellate authority to consider sufficient cause. Tax merits and actual condonation were not decided.

01 Facts of case and issues

The petitioner challenged the rejection of its GST appeal against a demand order dated 27 December 2023 for July 2017 to March 2018. It filed Form GST APL-01 online on 26 April 2024, attributing the delay beyond three months to its director's ill health. It stated that the reasons appeared in the appeal and that it had paid the ten-percent disputed-tax pre-deposit.

On 18 May 2024, the appellate authority rejected the appeal solely on limitation, treating three months plus the further condonable month as 120 days. The writ's confined question was whether Section 107(1) and (4) prescribe calendar months or fixed periods of ninety and thirty days.

Pinpoint: Paragraphs 3–7, physical pp. 6–8 (judgment pp. 4–6); paragraphs 12–15, physical pp. 10–15 (judgment pp. 8–13).

02 Discussion by Hon'ble Court

Section 107(1) allows three months from communication of the decision; Section 107(4) permits a further month only if the authority is satisfied about sufficient cause for missing the ordinary period. The Bench applied Section 9 of the Central General Clauses Act, 1897 to exclude the receipt day. For calendar-month computation, it used Supreme Court authorities discussed in *Econ Antri*, *Bibi Salma Khatoon* and *Himachal Techno Engineers*. *Bibi* concerned Sections 4(34) and 11 of the Bihar and Orissa General Clauses Act, 1917; *Himachal* referred to Section 3(35) of the Central Act. The Bench rejected conversion of months into ninety and thirty days. The judgment also drew support from *Rajpath Contractors* while expressly leaving the court-closure issue under Section 4 of the Limitation Act outside this case.

The Bench distinguished *Vaishnavi Enterprises* because that appeal was late even beyond the additional month. It rejected the coordinate Bench's ninety-day calculation as made in ignorance of the statute and binding superior-court precedents, then discussed the *per incuriam* principle. This did not reopen the result in *Vaishnavi*.

02 Discussion by Hon'ble Court

For this petitioner, the Court fixed the ordinary deadline at 27 March 2024 and the further-month endpoint at 27 April 2024. The appeal filed on 26 April therefore fell within the window in which the authority could consider condonation.

Pinpoint: Paragraphs 15–26, physical pp. 15–24 (judgment pp. 13–22); paragraphs 27–31, physical pp. 24–27 (judgment pp. 22–25).

03 Judicial decision and operative relief

The Court set aside the 18 May 2024 appellate rejection and allowed the writ. It directed the appellate authority to restore the appeal to its original file and consider the petitioner's reasons for not filing within three months. It declared the 26 April 2024 presentation within Section 107(4)'s further month.

The Court did not itself accept the illness explanation, grant automatic condonation, cancel the tax demand or decide the underlying assessment. The operative directions impose no fresh disposal deadline or express continuing recovery restraint.

Pinpoint: Paragraphs 30–33, physical pp. 26–27 (judgment pp. 24–25); distinguish the reliefs requested in paragraph 1, physical pp. 3–5.

04 In favour of

Petitioner on calendar-month computation and restoration of the appeal. Sufficient cause remained for the appellate authority; no final taxpayer victory on the demand or automatic admission on merits.

A final legal ruling on calendar-month computation, with limited procedural relief: the limitation rejection was removed so the authority could decide whether the delay should be condoned.

Pinpoint: Paragraphs 30–33, physical pp. 26–27 (judgment pp. 24–25).

05 AKHB REVIEW POINT

AKHB analysis: Preserve proof of the actual communication date and calculate the three-month deadline and additional calendar month separately. Do not replace the statutory units with a 120-day shortcut. If filing after the ordinary deadline, support the explanation for that delay with contemporaneous evidence and satisfy the applicable filing and payment requirements.

Use this judgment for the computation question. It gives no entitlement to an extra month without sufficient cause and no general power to condone beyond Section 107(4). Holiday extensions, service disputes and present-day statutory changes require separate examination. Confirm the source discrepancies below before relying on its factual dates or amounts in another proceeding.

Pinpoint: AKHB commentary based on paragraphs 12–15, 21–31 and 33; not additional Court directions.

Sources and limitations

Relevant provisions

CGST/BGST Acts, 2017: Sections 107(1), 107(4) and 107(6); Sections 73(1), 73(9) and 50 in the demand history. Central General Clauses Act, 1897: Sections 9 and 3(35). Bihar and Orissa General Clauses Act, 1917: Sections 4(34) and 11, through Bibi Salma Khatoon. Limitation Act, 1963: Section 12 in the authorities; Section 4 discussed but not decided.

Statutory note

Checked 13 October 2026. The decisive three-month and further-one-month wording was read in Section 107 reproduced at paragraph 14, physical pp. 11–12, and compared with CBIC's official Act webpage. That webpage is dated 12 April 2017 and is not a current consolidated Act. The attempted India Code Bihar Act download returned gateway errors; two attempted General Clauses Act downloads timed out. Accordingly, the General Clauses provisions are verified as quoted and applied in the judgment, not through a successful fresh statutory PDF retrieval.

Targeted official-domain amendment searches did not establish a change to the specific month-based wording. This is not a complete Central or Bihar amendment, notification, special-extension or filing-rule audit. The judgment's longer Section 107 quotation includes later Central amendment footnotes; its pre-deposit provisions should not be treated as a current all-State compliance checklist. The note states the ratio and preserves the need to verify the law applicable to the particular appeal.

Treatment note

Checked 13 October 2026. Targeted party-name, docket, citation and appellate-status searches did not verify a later reversal, stay or modification of this judgment. In the official Supreme Court party-name search, the text Brand Protection, party role Any, returned No records found for diary years 2025 and 2026 under both Pending and Disposed filters. Those results are limited to those exact queries, not a certification that no appeal exists; no matching Supreme Court appeal docket was identified. High Court review and subsequent administrative appeal outcomes were not independently established.

A secondary index surfaced *M/s Ashirbad Motors v. Commissioner, Orissa High Court, W.P.(C) 5872/2025*, dated 23 April 2025, as a later citation. The official searches retrieved filing and cause-list records but not the reasoned judgment, so that lead is not adopted as primary-verified judicial treatment here. This is a bounded treatment check, not comprehensive citator clearance or a claim of human review.

Scope of source review

All 27 physical pages were fully read and individually visually inspected. Physical pp. 1–2 are editorial eILR headnotes, not judicial reasons. The judicial text begins on physical p. 3 and runs for 25 pages; physical p. N corresponds to judgment p. N minus 2. The first judicial page has no printed page numeral; the next bears 2/25. Holdings and pinpoints in this note come from the judicial text. Supreme Court and coordinate-Bench authorities are discussed as used in this judgment; separate full-text review of each authority is not claimed.

Source notes

The official eILR file prints citation 2025(2) eILR(PAT) HC 48. No separate neutral citation is invented. The oral judgment is dated 4 February 2025; the terminal uploading field is 6 February 2025.

Paragraph 21, physical p. 19 (judgment p. 17), says “27.12.2018” and describes receipt of the “appellate order”. That wording is inconsistent with the demand chronology at paragraph 5, physical p. 7, and the

March/April 2024 endpoints expressly fixed at paragraph 30, physical p. 26. This note reports those endpoints without silently editing the source or asserting a verified correction. Prayer (ii), physical p. 4, also says 18.05.2023, whereas paragraph 7, physical p. 8, and the operative paragraph 32, physical p. 27, identify the appellate rejection as 18.05.2024.

Prayer (i), physical p. 4, lists tax Rs. 21,21,878 and penalty Rs. 8,12,188; the petitioner's submissions at paragraph 3, physical p. 6, list tax Rs. 81,21,878 and penalty Rs. 8,12,187, and paragraph 5, physical p. 7, repeats tax Rs. 81,21,878. Both prayer (i) and paragraph 3 state interest Rs. 77,97,004. These discrepancies are not resolved by the judgment and are not used to calculate a liability here. Paragraph 4, physical pp. 6–7, also describes a 22.10.2023 reminder after describing a reply due by 08.12.2023; the underlying correspondence was not on record.

Paragraph 30's phrase about being prevented from presenting the appeal within the further month is read with the statute and paragraphs 15, 31 and 33, which require sufficient cause for missing the original three months. No quotation is silently repaired.

A normal-TLS fresh download from the official www.patnahighcourt.gov.in version of the source URL on 13 October 2026 produced the same 27 pages and byte length, but a different file hash. All 27 pages' extracted text and rendered pixels match the retained original exactly; modification metadata and PDF object ordering differ. The retained original remains unchanged at SHA-256 3077b38a34af77b4400b61533caea9dc925adc72111cf2be4d509912452d16eb. No cryptographic signature authentication is claimed.

Primary source

Source description: Official Patna High Court eILR judgment, including two editorial headnote pages

Official source: [Open source document](#)

Source pages: 27

Judgment author: Rajeev Ranjan Prasad, J. (oral judgment)

Outcome type: final limitation holding appeal restored for condonation consideration

Additional source

Official Patna High Court eILR source via www host, freshly downloaded 13 October 2026

Official source: [Open source document](#)

Pinpoint: Same 27-page content; all extracted page text and rendered pixels compared with the retained original.

CBIC official CGST Act webpage

Official source: [Open source document](#)

Pinpoint: Section 107(1) and (4); legacy Act text dated 12 April 2017, not a current consolidation.

Official Supreme Court party-name case-status search

Official source: [Open source document](#)

Pinpoint: Bounded party-name check on 13 October 2026; scope and results stated in treatment note.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official judgment and identified primary sources. No human legal review is claimed.

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