Draft Application for Condonation of Delay Under Section 107 of CGST Act, 2017/ Delhi GST Act, 2017

To,

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Subject: Application for condonation of delay of days in filing the appeal

In the Matter of:

Company Title: <**Company Name>**

GST Number: <**GSTIN>**

Financial Year: 20....-.....

Order reference Number: **_____**

DIN: _____

Respected Sir,

With reference to the captioned subject matter, We, most humbly state as under:

We, have filed the abovementioned appeal against the order passed by the Proper Officer on December ....., 20.... under section 73(5) of .....Goods and Services Tax (.....GST) Act, 2017 against the demand of Rs. …,00,000 which is due to …….. reasons

Particular	**Date**
Order for demand	30-Dec-2023
Appeal to be filed within 3 month then the last date for Filing appeal	30-Mar-2024
30 days condonation period as per section 107 of CGST Act Last date after condonate the appeal by the Commissioner	30-Apr-2024
Appeal filed	05-Apr-2024
Within power of First Appellate Authority to condone the delay	**YES, as total delay is of 6 days**

As per above Table we want only condonation of 6 Days. But the First Appellate Authority have power to grant condonation of 30 days

Background of the case:

• The aforementioned order was communicated to us on . The said order and notice of demand under section 73(5) of DGST Act 2017 were received by us on GST Common Portal. The due date of filing the appeal was < **..-March-2024**> appeal is filed on <**….April-2024**>.

• As per Section 107(1) of the CGST Act, an appeal against any decision or order passed by an adjudicating authority can be filed before the Appellate Authority **within three months** from the date of communication.

• Unfortunately, we were unable to file the appeal within the stipulated timeframe due to **[Explain the specific reason for the delay]**.

Request for Condonation:

Hence there was a delay of 6 days, in filing of the appeal.

The delay

The delay was without knowing the legal provisions.

Hence, we have filed an appeal prepared and filing the same with condonation of delay.

We, therefore, pray that the delay in filing the appeal may be condoned.

In view of the above facts, we submit that the delay was unintentional, for bona fide reasons and due to the circumstances beyond the control of the Appellant.

Reliance is placed on the decision of the **Hon'ble Supreme Court** in the case of **N. Balakrishnan v. M. Krishnamurthy (1998) 7 SCC 12**3, the Court made the following observations:

"It is axiomatic that condonation of delay is a matter of discretion of the court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter; acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court."

Further reliance is placed on the decision of the **Hon'ble Supreme Court** in the case of **Senior Bhosale Estate (HUF) v. Asstt. CIT [2019] 419 ITR 732/112 taxmann.com 134/[2020] 269 Taxman 472 (SC)** wherein it was held that unless that fact was to be refuted, question of disbelieving stand taken by assessee on affidavit, could not arise.

We submit that the expression 'sufficient cause' must receive a liberal construction so as to advance substantial justice and generally delays in preferring the appeals are required to be condoned in interest of justice. A litigation does not stand to benefit by resorting to delay, therefore a justice-oriented approach is required by courts. In every case of delay there can be some lapses on the part of the litigant concerned, but that alone is not enough to shut the door against him. We, further submits that refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. In matters of condonation of delay a highly pedantic approach should be eschewed and a justice-oriented approach should be adopted and a party should not be made to suffer on account of technicalities.

We, request you to be pleased to consider the facts of the case and condone the delay of days. We further request you to please provide us with personal hearing in case you are passing any adverse order or rejecting our application for condonation.

Thanks, and Regards

For .....

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Authorised Signatory

Date:03-Apr-2024

Place: New Delhi

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