

**HIGH COURT OF TRIPURA
AGARTALA**

**IA 1 OF 2023 IN
WP(C) 339 OF 2023(D/O)**

**Sri Ajit Bhattacharjee
Vrs.**

Commissioner, Central Goods and Services Tax and Central Excise.

Present:

For the Applicant : Mr. V. Shraff, Advocate.

For the State-respondent : Mr. K. De, Addl. G.A

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR.JUSTICE ARINDAM LODH**

ORDER

09.10.2023

Heard learned counsel for the petitioner, Mr. V. Shraff and Mr. K. De, learned Addl. G.A. appearing for the respondent no.3.

This application has been filed in a disposed of Writ Petition (Civil) No.339/2023, judgment dated 24th August, 2023 whereby this court refused to interfere in the matter but relegated the applicant/petitioner to prefer an appeal before the learned CESTAT. However, while disposing of the writ petition, this Court granted liberty to the applicant/petitioner to approach the learned CESTAT within a period of three weeks. Learned counsel for the applicant states that the pre deposit of 7.5% of the impugned tax in terms of Section 35(F) of Central Excise Act was made on 12th September, 2023 within three weeks time as granted by this Court in the judgment dated 24th August, 2023. However, the applicant/petitioner could not make the deposit of Rs.10,000/- as appeal fee due to some technical difficulties in the Portal. There was no reason why the deposit of appeal fee of Rs.10,000/- could have been delayed on the part of the applicant/petitioner to suffer the bar of limitation when the entire pre deposit was made within the time stipulated by this Court. The appeal fee was deposited on 29th September, 2023. Since the applicant/petitioner has been granted liberty by this Court to prefer an appeal before the learned CESTAT and also allowed three weeks' time to do so, in the circumstances explained above, the applicant/petitioner seeks extension of

the time for preferring an appeal for two more weeks from today. Therefore, the applicant/petitioner has approached this Court through Interlocutory Application No.01/2023.

Learned counsel for the Central Goods and Services Tax and Central Excise Authorities is not present, however, learned counsel for the State of Tripura is present.

From what has been stated in the instant Interlocutory Application No. 01/2023, it appears that the applicant/petitioner has made the pre deposit within the period of three weeks granted by this Court vide order dated 24th August 2023. However, it appears that there has been some delay in depositing the appeal fees which is only Rs.10,000/- allegedly on account of technical difficulties in the Portal. We, at this stage need not examine the correctness of the plea as the same can be well considered by the learned CESTAT. However, we also are of the view that if the applicant/petitioner has been able to make a pre deposit of 7.5% of the tax imposed upon him, there was no reason why he would not deposit the required Rs.10,000/- appeal fee within time unless he encountered genuine difficulties may be of a technical nature. In such circumstances, we are of the opinion that the learned CESTAT would consider the explanation furnished by the applicant/petitioner in the application for delay so preferred sympathetically and in accordance with law.

The instant application is accordingly disposed of.

(ARINDAM LODH),J

(APARESH KUMAR SINGH),CJ

**SANJAY
GHOSH**

Digitally signed by SANJAY
GHOSH
Date: 2023.10.13 11:50:22
+05'30'