

26.7.2021
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WPA 625 of 2021

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M/s. Modicum Enterprise(OPC) Private Limited
Vs
Deputy Commissioner of State Tax & Ors.

Mr. Surabh Sankar Sengupta,
Mr. Indranil Biswas
... For the Petitioner.
Mr. A. Ray,
Mr. S. Mukherjee,
Mr. D. Ghosh
... For the State.

Heard learned Advocates appearing for the parties.

The grievance of the petitioner in this writ petition is that its appeal under the relevant provision of the GST Act has been rejected by the Appellate Authority by its impugned order dated 28th September, 2020 on the ground of delay in submission of appeal (appears at page 100 being Annexure P-11 to the writ petition).

Learned Advocate appearing for the petitioner submits that due to pandemic situation, he could not file the appeal within time and he relies on a decision of the Hon'ble Supreme Court dated 8th March, 2021 in the case of Suo Moto Writ Petition(C) No.3/2020, wherein the Hon'ble Supreme Court has held that where any limitation expired during the period between 15th March, 2020 till 14th March, 2021, shall be excluded in computing the period of limitation for any Suit, Appeal, Application or Proceedings.

Considering the submission of the parties and the aforesaid decision of the Hon'ble Supreme Court, the aforesaid impugned order dated 28th September, 2020 is set aside by restoring the appeal before the Appellate Authority to its file and number with a direction upon the Appellate Authority concerned to consider afresh the appeal in question of the petitioner in accordance with law and pass a reasoned and speaking order after giving an opportunity of hearing to the petitioner or his authorised representative expeditiously.

It is recorded that this court has not gone into the merits of the appeal in question before the Appellate Authority and the Appellate Authority is to decide the appeal in question on its own merit and strictly in accordance with law.

Accordingly, WPA 625 of 2021 is disposed of.

Since this writ petition is disposed of at the motion stage without calling for any affidavits, allegations contained in the writ petition shall be deemed to have been denied by the respondents.

(Md. Nizamuddin, J.)

