July 27, 2021
AD 09
SG/S. Biswas

MAT 620 of 2021
With
CAN 1 of 2021

Orion Pest Solutions Private Limited and another
vs.
Superintendent, Central Tax Range - VI,
Rashbehari Division

(Through Video Conference)

M/s. Vinay Shraff,
Himangshu Kr. Ray, Advocates
... for the appellants
(present in Court)

M/s. Somnath Ganguli,
Tapan Bhanja,
Tapan Bhanja,
Radhamohan Roy,
Ms. Priyamvada Singh,
Ms. Sabnam Basu
... for the respondent/revenue
(on virtual mode)

Challenge in the present appeal filed by the appellants is to an order dated July 1, 2021 passed in WPA 10732 of 2021 by the learned single Judge, whereby prayer for interim relief has been declined.

The learned counsel for the appellants submitted that vide order dated October 19, 2020, the registration of appellants under GST Act was cancelled. Challenging the aforesaid order, appeal was filed before the appellate authority. The same was dismissed on May 28, 2021 being barred by limitation. By an order passed by the Hon'ble Supreme Court, whereby on account of COVID-19 pandemic, the limitation for filing of appeals was extended [Suo Motu Writ Petition (Civil)

No.3 of 2020 dated March 8, 2021]. The submission is that this appeal could not have been dismissed as time barred.

On the other hand, learned counsel for the revenue submitted that in view of the order passed by the Hon'ble Supreme Court in the aforesaid case, the appeal filed by the appellants challenging the order of cancellation of the registration of GST of the appellants should have been entertained and not dismissed on account of limitation. He submitted that the appeal was not the appropriate remedy for the appellants as they have to approach the assessing authority.

After hearing learned counsel for the parties and the fair stand taken by the learned counsel for the revenue, in our opinion, with the consent of the parties, the present appeal as well as the writ petition being WPA 10732 of 2021 can be disposed of while setting aside the order dated May 28, 2021 passed by the appellate authority dismissing the appeal filed by the appellants against cancellation of registration certificate, as time barred.

The parties shall appear before the appellate authority for consideration of the appeal on merits on August 4, 2021. In case any precondition has to be satisfied for entertainment of appeal, the appellant may have to comply with those conditions, subject to order passed by the appellate authority.

[Rajesh Bindal, C.J.(A)]

[Rajarshi Bharadwaj, J.]