September 8, 2021
AD 49
Court No.1
SG/s.biswas

MAT 689 of 2021
with
CAN 1 of 2021

M/s. Mjunction Services Limited and another
vs.
The Additional Commissioner, State Tax, Large Taxpayer Unit, West Bengal and others

(Through Video Conference)

Mr. Himangshu Kumar Ray,
Mr. Vinay Shraff, Advocates
... for the appellants

Mr. Anirban Ray, ld. Government Pleader with
Mr. Soumitra Mukherjee,
Mr. Debasish Ghosh, Advocates
... for the State

Order dated June 24, 2021 passed by the Single Judge of this court whereby the petition filed by the appellants was dismissed, has been impugned in the present intra-court appeal.

The only grievance of the appellants is that the appeal filed against the rejection of their refund claim has been dismissed as time barred. The argument is in terms of the Rule 108 of the Central Goods and Service Tax Rules, 2017 the appeal could only be filed online that too after the order is uploaded. In case of the appellant as the order has not been uploaded till date, there is no question of filing the appeal online. Hardcopy of the order was supplied to the appellants by the concerned officer on August 3, 2019 and after waiting for some time for the order to be uploaded on the website, the appeal was filed in hard copy, which was dismissed as time barred. As the only mode provided in the Rules is to file the appeal online, the appellants could not avail of that remedy.

The prayer made is that the appeal filed by the appellants be considered on merits.

Learned counsel for the State fairly submitted that on account of technical defect on the website and the order impugned having not been uploaded on the website, as a result of which the appellants were unable to file the appeal online, the hard copy of the appeal filed by the appellants shall be considered to have been filed within limitation and it will be heard and decided on merits.

In view of the aforesaid fair stand taken by the learned counsel for the State, the present appeal is disposed of with direction to the appellate authority to decide appeal filed by the appellant against the order of rejection of the refund application on merits after affording due opportunity of hearing to the parties.

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

[Rajarshi Bharadwaj, J.]