

27.08.2021

p.b.
Sl. No.3.

W.P.A. 12149 of 2021

Miss. Bharati Singh

Vs.

Superintendent of CGST & Central
Excise, Bolpur Commissionerate,
Durgapur-II Division, Range-IV & Ors.

(Via Video Conference)

Ms. Bharati Singh.

.....for the petitioner (in person).

Mr. B. P. Banerjee,

Mr. Tapan Bhanja.

.....for the respondents.

In this matter, the petitioner seeks liberty to appear in-person and files no objection from her Advocate-on-Record which may be kept with the record.

In this matter, the petitioner has challenged the impugned order dated 4th June, 2021 passed by the Additional Commissioner, CGST/Appellate Authority rejecting the appeal of the petitioner and upholding the rejection order of application for revocation and/or cancellation of reference in question issued by the Assistant Commissioner, CGST, Durgapur, on the ground that before filing of the appeal, one of the conditions precedent i.e. the deposit of interest within specified time was not complied with though it is on record as has been recorded by the appellate authority itself that the

appellant/writ petitioner had filed the due interest on 20th March, 2021 which is beyond time though before filing of appeal in question. Petitioner submits that petitioner being a litigant and a lay person and being unaware of legal formalities, she should not be penalised for the fault of her advocate in not advising her to deposit the interest in question within the due date prescribed in law before filing the appeal. In the interest of justice and considering the circumstances under which petitioner could not deposit the interest within specified time, on technical ground, appeal of the petitioner should not be rejected and for substantial justice appeal should be heard on merit.

Considering the submission of the parties and the facts involved in the matter as appears from record, the impugned order of the appellate authority dated 4th June, 2021 is set aside and appeal is restored to file and remanded to him for hearing afresh on merit and dispose the same on merit, within four weeks from the date of communication of this order in accordance with law and by passing a reasoned and speaking order and after giving an opportunity of hearing to the petitioner or its authorised representatives and to communicate his decision to the petitioner within one week thereafter.

It is recorded that this Court has not gone into merit of the appeal in question and the respondents appellate

authority shall decide the appeal on its own merit and strictly in accordance with law.

Since the impugned order is set aside solely on the ground of substantial interest of justice and this writ petition is disposed of without affidavits, allegations in the writ petition shall be deemed to have been denied by the respondents.

The writ petition being WPA No.12149 of 2021 is disposed of.

(Md. Nizamuddin, J.)