

**02.09.2022**

Sl no. 29

Ct no. 2

P.M.

**WPA 19720 OF 2022**

**Rahul Budhia, HUF**

**- Vs -**

**Joint Commissioner, Directorate of  
Commercial Taxes & Ors.**

Mr. Lalitendra Gulani  
Mr. Soumyadip Panda,  
Ms. Sneha Ghosh

... for the petitioner

Mr. Anirban Ray, Ld. Govt. Pleader  
Mr. T.M. Siddiqui,  
Mr. D. Ghosh,  
Mr. N. Chatterjee,  
Mr. V. Kothari

.... For the State

Heard learned Counsel appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 15<sup>th</sup> February, 2022 passed by the appellate authority concerned under the WBGST Act, 2017 dismissing the appeal in question filed by the petitioner on the technical ground of non-filing of certified copy of the adjudication order along with the said appeal.

Learned counsel appearing for the petitioner submits that it is in possession of the certified copy of the order to be appealed and for the ends of justice, appeal in question should be heard and

disposed of on merit after allowing the petitioner to file certified copy of the same.

I find on perusal of record that there are lapses on the part of the petitioner which reflects from records that the order dated 9<sup>th</sup> December, 2021, against which the appeal was filed, petitioner was having the certified copy of the same but it did not file the same by taking the plea that since the statutory period of time to file appeal was still available, the appellate authority should not have dismissed appeal in question. Petitioner also could not explain the delay in filing this writ petition which was filed on 26<sup>th</sup> August, 2022, though the impugned order by the appellate authority was passed on 15<sup>th</sup> February, 2022.

Considering the facts and circumstances of this case as appears from record and the lapses on the part of the petitioner, I am inclined to allow the writ petition in the interest of justice by setting aside the aforesaid impugned order dated 15<sup>th</sup> February, 2022 and remanding the matter back to the appellate authority concerned to pass a reasoned and speaking order after giving an opportunity of hearing to the petitioner or its authorized representatives by accepting the certified copy of the aforesaid order

dated 9<sup>th</sup> December, 2021 on condition of payment of cost of Rs. 25,000/- to the Calcutta High Court Bar Association Lawyers' Benevolent Fund within a week from date.

The appellate authority shall dispose of the appeal within three months from the date of compliance of the term of condition of this order.

In case of default in compliance of this order within the time stipulated herein, this order will not survive.

This writ petition has been considered and allowed only in the interest of justice since the impugned order passed by the appellate authority was only on technical ground and not on merit.

With this observation and direction this writ petition being WPA 19720 of 2022 stands disposed of.

**(Md. Nizamuddin, J.)**