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04.03.2022
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**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

**W.P.A 165 of 2022
(Via Video Conference)**

**J.K. Construction & Anr.
-versus
Deputy Commissioner,
Bureau of Investigation & Ors.**

**Mr. Anil Kumar Dugar,
Mr. Rajib Mukherjee,
Mr. Debajit Kundu.
...For the Petitioners.**

**Mr. Subir Kumar Saha,
Mr. Bikramaditya Ghosh.
...For the State.**

Supplementary affidavit filed in Court today is taken on record.

The petitioners' appeal under Section 107 of the West Bengal Goods and Services Tax Act, 2017 has been rejected primarily because the petitioner could not produce the relevant documents in support of their case.

It is the specific contention of the petitioners that the petitioner No.2 is the person who looks after the day to day functioning and accounts of the petitioner No.1.

The petitioner No.2 is a senior citizen nearly 74/75 years of age and he is suffering from various ailments.

Learned advocate appearing for the petitioners relies upon certain medical documents to show that the petitioner No.2 was not in a position to appear before the appellate authority on the scheduled dates.

It appears from the order of rejection dated 29th September, 2021 that four opportunities were given to the petitioners on 19th March, 2021, 15th July, 2021, 2nd September, 2021 and again on 28th September, 2021 to appear and defend their case. It is only when none appeared on behalf of the petitioners on repeated occasions that the authority rejected the appeal.

Prima facie it appears that the conduct of the petitioner No.2 cannot be supported. When four opportunities were given, the petitioners ought to have made an attempt to intimate the appellate authority with regard to any difficulty/inconvenience faced to appear on the date fixed. Instead of doing so, the petitioners did not care to intimate the appellate authority any reason for non-appearance.

Presently, documents have been produced before this Court and submission has been that in view of the surge of Covid-19 cases and in view of the ill-health of the petitioner No.2, proper steps could not be taken on time.

The Court has been made aware of the order passed by the Hon'ble Supreme Court extending the period of limitation.

In the present case, whether the petitioners will get the benefit of the order extending the period of limitation by the Hon'ble Supreme Court and whether the petitioners will get a further opportunity to reopen

the case which has already been finalized by rejecting the appeal, may be decided by the appellate authority.

The Court, at this stage, is not interfering with the order of rejection of appeal.

The petitioners are granted liberty to approach the respondent No.2 with a prayer for granting further opportunity to represent their case.

In the event the petitioners approach the respondent No.2 within a week from date along with all supporting documents, the said respondent shall consider the prayer of the petitioners keeping in mind the observations made by the Hon'ble Supreme Court.

If the said authority is of the opinion that the prayer of the petitioners for placing documents in support of their case may be accepted, then necessary steps shall be taken by the said authority to intimate the petitioners a fixed date and time for production of necessary documents in their support and proceed to decide the appeal on merits.

It is made further clear that if the petitioners fail to apply within the time stipulated hereinabove, the relief claimed for by the petitioners herein is not required to be looked into by the said respondent.

The writ petition stands disposed of.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)