

HIGH COURT AT CALCUTTA
In the Circuit Bench At Jalpaiguri
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 682 of 2022

Sanjoy Singh

Versus

The State of West Bengal & Ors.

For the petitioner : Mr. Nabankur Paul
...Advocate

For the State : Mr. Bikramaditya Ghosh
Mr. P. Das
...Advocates

Heard on : 11.04.2022

Judgment on : 11.04.2022

JAY SENGUPTA, J:

This is an application challenging an order dated 20.07.2021 passed by the Joint Commissioner of Revenue, Bureau of Investigation being the respondent no.4 under Section 74 of the WBGST Act.

Affidavit of service filed on behalf of the petitioner is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. By the impugned order, the appeal preferred by the petitioner was dismissed on the ground that the certified copy of the impugned order challenged therein was not filed in time in accordance with Rule 108 (3) of the WBGST Rules 2017. However, by the order dated 23.09.2021 passed by a Special Bench of the Hon'ble Apex Court in re: Cognizance for Extension of Limitation in Miscellaneous Application No. 665 of 2021 in SMW (C) No. 3 of 2020, the period from 15.03.2020 till 02.10.2021 was excluded in computing periods of limitation for filing a suit appeal, application or proceeding. The period was extended from time to time. The relevant period in respect of the present appeal are covered within such period. Therefore, the respondent no.3 committed a gross error in rejecting the appeal only on the ground of limitation.

Learned counsel appearing on behalf of the respondent nos. 3 and 4 submits that in view of the order passed by the Hon'ble Apex Court, the period as mentioned therein should have been taken into consideration in dealing with the petition of appeal under the WBGST Act.

I have heard the submissions of the learned counsels appearing on behalf of the petitioner and the respondents and have perused the revision petition.

In view of the order passed by the Hon'ble Apex Court in re: Cognizance for Extension of Limitation (supra), the relevant period was excluded in computing limitation period for filing an appeal. The petitioner is

entitled to get the benefit of the same as the relevant period is covered by the time period referred to in the order passed by the Hon'ble Court.

Therefore, the impugned order needs to be set aside and the delay condoned in filing the certified copy.

In view of the above and in the interest of justice, I set aside the impugned order, condone the delay in filing the certified copy and direct the respondent nos. 3 and 4 to consider the appeal preferred by the petitioner under the WBGST Act afresh on merits.

With these observations, the writ application is disposed of.

Urgent certified website copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Jay Sengupta, J)