05.01.2022
Srimanta
Ct. No. – 02
Sl. No. 08

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction
(Via Video Conference)

W.P.A. 2582 of 2021

The Buxa Dooars Tea Co. (India) Limited
-versus
The State of West Bengal & Ors.

Mr. Nabankur Paul, Adv.,
Mr. Ajoy Mohata, Adv.,
…For the Petitioner.

Mr. Subir Kumar Saha, Adv.,
Mr. Bikramaditya Ghosh, Adv.
…For the State

Mr. Sudipto Kumar Mazumder, Adv.,
Mr. Ajoy Kumar Singhania, Adv.
…for the Union of India.

Affidavit-of-service filed in Court today be kept with the record.

The instant writ petition is filed by the petitioner, a private limited company challenging the order dated 26th August, 2021 passed by the Senior Joint Commissioner of Revenue, Commercial Taxes, Jalpaiguri Circle being the appellate authority under the West Bengal Goods and Services Tax Act, 2017. The grievance of the petitioner is that for non-submission of return within the statutory period of time, the adjudicating authority passed an order imposing GST with penalty upon the petitioner. The petitioner preferred an appeal before the above-named appellate authority after expiry of period of limitation as envisaged in Section 107 (1) of the WBGST Act, 2017.

The said appeal was disposed of on the ground of limitation in view of the provision of Section 107 (1) of the WBGST Act. It is submitted by the learned advocate for the petitioner that at the relevant period of time there was covid pandemic. Considering the fact that the normal functioning of the Court was hampered during covid pandemic, the Hon’ble Supreme Court passed an order in SMW (C) No. 3 of 2020 with following directions :-

“1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.

2. In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation

remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.

3. The period from 15.03.2020 till 14.03.2021 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the Court or tribunal can condone delay) and termination of proceedings".

It is further directed that the said order would be made operational upon the quasi judicial bodies in quasi judicial proceedings. Subsequently, the period of limitation was extended from 15.03.2020 till 02.10.2021.

Therefore, the appellate authority wrongly disposed of the appeal filed by the petitioner on the ground of limitation. Accordingly, the impugned order dated 26th August, 2021 is quashed. The appellate authority being the respondent no. 3 is directed to hear out the appeal on merit after giving opportunity to the appellant of hearing.

The instant writ petition is **disposed of** with the above direction.

The parties are at liberty to act on the server copy of this order.

(Bibek Chaudhuri, J.)