WPA 1276 OF 2023

30.01.2023
Sl no. 13
Ct no. 2
P.M.

Md. Haider Ayub @ Mahammed Haider Ayub
- Vs -
Assistant Commissioner of State Tax, Colootola Charge; & Ors.

Mr. Anil Kumar Dugar,
Mr. Rajarshi Chatterjee,
Mr. Gobinda Dey
… for the petitioner

Mr. Anirban Ray, Ld. Govt. Pleader
Mr. D. Ghosh,
Mr. D. Sahu
… for the State.

Heard learned advocates appearing for the parties.

Petitioner has filed this writ petition praying for relief of allowing him to file appeal against the impugned order dated 23rd September, 2021 under Section 74 of the WBGST Act which has already become barred by limitation.

Petitioner has explained such delay in the pleadings in paragraph 2 of the writ petition from which it appears that petitioner was not mentally fit owing to loss of two family members in his family namely his brother and father and treatment for whom was on his shoulder. Paragraph 2.3 of such pleading is recorded hereunder :

"2.3 Your petitioner submits and states that he was mentally too disturbed and upset owing to loss of two family members since August 2021. Your petitioner's elder brother Md. Akbar Ayub residing in Hyderabad was seriously ill since August, 2021 and your petitioner was required to travel on and off to Hyderabad for proper treatment and ultimately, said brother was shifted to Apollo Hospital for treatment but his life could not be saved and he expired on 03.07.2022. Being shocked by the death of Md. Akbar Ayub, the health of the father of petitioner too started deteriorating and he too died on 09.08.2022 while reciting Namaz.

The photocopies of the documents relating to ill health of brother of petitioner, death certificates of petitioner's brother and father and documents regarding petitioner role in treatment of his brother, are annexed herewith and marked as Annexure"P/1".

Petitioner has annexed all relevant medical documents to this writ petition.

Considering the aforesaid exceptional facts and circumstances of this case, this writ petition being WPA 1276 of 2023 is disposed of by allowing the petitioner to file the appeal before the appellate authority concerned against the aforesaid impugned order dated 23rd September, 2021 within two weeks from date subject to compliance of the formalities required under the law including the payment of Rs. Two lakhs out of the disputed tax in question, if such payment is made by the petitioner within the time stipulated herein the appellate authority concerned will entertain such appeal to be filed and consider and dispose of the same on merit.

(Md. Nizamuddin, J.)