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WPA 2058 of 2023

Smt. Sharmistha Dutta, Proprietor of M/s. Infotech Lab.

Vs

Union of India & Ors.

Mr. Arijit Chakrabarti,
Mr. Nilotpal Chowdhury,
Mr. Prabir Bera,
Mr. Deepak Sharma
… For the Petitioner.
Mr. K.K. Maiti,
Mr. Tapan Bhanja
… For the CGST Authority.
Mr. Rameshwar Sinha
… For the UOI.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order of the Appellate Authority dated 22nd November, 2022, under the CGST Act dismissing the Appeal on the ground of delay of 24 months from the date of communication of the order in original dated 1st August, 2020. The Appellate Authority has recorded one of the reasons that the certified copy of the order was submitted after 24 months. This is self-contradictory and is perverse since the Appellate Authority himself has recorded in the said impugned order that the actual balance period of limitation remaining with effect from 1st March, 2022, and is completed after 90 days on 29th May, 2022. As it appears from record that the petitioner had filed the appeal on 25th February, 2022, which may be defective for non filing the certified copy along with the appeal but how there could be delay of 24 months according to the own recording of the Appellate Authority when he himself has recorded that the period of limitation remaining with effect from 1st March, 2022, and the appeal has been filed on 25th February, 2022. According to me such finding of the Appellate Authority that there was delay of 24 months in filing the appeal is perverse and in total non-application of mind.

Petitioner submits that cancellation of her registration was due to non-filing of return but later on to show her bona fide she has paid all the tax dues up to the period of cancellation and has deposited another amount approximately Rs. 24 lakhs, which is lying with the Electronic Cash Ledger.

Considering the facts and circumstances of this case and in the interest of justice, this court is not taking a hyper-technical view and disposing of this writ petition by directing the respondent authority concerned to restore the registration of the petitioner and open the portal for a period of 30 days from the date of restoration of the registration of the petitioner on condition that the petitioner shall pay all revenue arrears and dues and file return within such period and in case of default, the respondent authority concerned will be free to block the portal and to take all actions against the petitioner in accordance with law.

In case of compliance of this order within the time stipulated, in that event unblocking of the portal will continue after 30 days.

With this observation and direction, this writ petition being WPA 2058 of 2023 is disposed of.

(Md. Nizamuddin, J.)