

14.3.2023

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WPA 3824 of 2023

Bengal Universal Consultants Pvt. Ltd.
Vs
The Superintendent, CGST, Range-VI, Bidhannagar
Division & Ors.

Mr. Rajarshi Chatterjee
... For the Petitioner.
Mr. Kaushik Dey,
Ms. Ekta Sinha
... For the CGST Authority.

Heard learned Advocates appearing for the parties.

Petitioner has filed this writ petition challenging the impugned order of the Appellate Authority under the CGST Act, dated 12th October, 2022, dismissing the appeal of the petitioner on the ground of limitation without going into the merits of the same. According to the order of the Appellate Authority as appears from its recording that appeal was filed by the petitioner on 5th July, 2022 i.e. after 23 months from the date of communication of the order in original dated 11th August, 2020. It is the case of the petitioner that major part of the delay was covered by the decision of the Hon'ble Supreme Court by which litigants/petitioners were given protection during the Covit-19 pandemic period and if that period is taken into consideration, there is no delay in filing the appeal, which according to the petitioner was filed on 16th of February, 2022, and there is a minor delay only

in filing the certified copy of the order in original. On perusal of the aforesaid order of the Appellate Authority it appears that the Appellate Authority in spite of recording the aforesaid order of the Hon'ble Supreme Court that from 15th March, 2020 till 28th February, 2022, this period shall be excluded for the purpose of limitation, benefit of limitation period as per the aforesaid judgment of the Hon'ble Supreme Court has not been given to the petitioner.

Considering the facts and circumstances of the case as appears from record and taking into consideration the judgment of the Hon'ble Supreme Court in Miscellaneous Application No.21 of 2022 in Miscellaneous Application No. 665 of 2021 in Suo Motu Writ Petition (C) No. 3 of 2020, the aforesaid impugned order of the Appellate Authority dated 12th October, 2022, is set aside and the matter is remanded back to the Appellate Authority concerned to dispose of the appeal in question on merits and in accordance with law after giving an opportunity of hearing to the petitioner or its authorised representative, within a period of eight weeks from the date of communication of this order.

(Md. Nizamuddin, J.)

