WPA 14607 OF 2023

04.07.2023
Sl no. 18
Ct no. 2
P.M.

Diksha Greens Limited

- Vs –

Deputy Commissioner of State Tax, College Street Charge & Ors.

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

Mr. Anirban Ray, Ld. Govt. Pleader
Md. T.M.Siddiqui,
Mr. Saptak Sanyal
... for the State.

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the impugned order dated 17th April/18th April, 2023 passed by the appellate authority concerned under the WBGST Act on a mere technical ground of delay of nine days in filing the appeal in question electronically which according to the petitioner was not for the fault on the part of the petitioner and according to it such delay was occurred due to technical snag in the official portal of the department. It is also an admitted position that due to such technical snag in the portal, petitioner filed the appeal physically also within time. Petitioner further contends that period of technical snag in the portal if excluded in that event filing of appeal in question electronically is also very much within the time.

Considering the facts and circumstances of this case and taking into consideration that the appeal in question was filed by the petitioner both physically and electronically within time and delay, if any, occurred in filing the Appeal electronically was not due to any fault on the part of the petitioner and that on excluding the period of technical snag in the official portal of the department, Appeal has been filed electronically within time and in the interest of justice the aforesaid impugned order of the appellate authority is set aside and the matter is remanded back to the appellate authority concerned to consider and dispose of the appeal in question by passing a fresh order in accordance with law and after observing principles of natural justice, within a period of eight weeks from the date of communication of this order.

It is expected that both the CBIC and WBGST authorities concerned shall consider the problem being faced by the assessees like the petitioner in filing Appeals electronically against the adjudication orders-in-original within the statutory period and where the delay occurring in filing Appeal electronically is due to technical snag in the official portal of the department and not for the reasons attributable to the assessees and for exclusion of the said period for the purpose of computation of limitation in filing the Appeal, by issuing appropriate circular/Notification.

Let a copy of this order be forwarded by the Ld. Registrar General of this Court, to the Commissioner, State Tax, WBGST, West Bengal and Central Board of Indirect Taxes and Customs, New Delhi.

With the observation and direction made above this writ petition being WPA 14607 of 2023 stands disposed of.

(Md. Nizamuddin, J.)