

WPA 15515 OF 2023

19.07.2023

Sl no. 13

Ct no. 2

P.M.

Steel Se Engineering Private Limited

- Vs -

**Assistant Commissioner of State Tax,
Kadamtala Charge & Ors.**

Mr. Anil Kumar Dugar

... for the petitioner

Mr. Anirban Ray, Ld. Govt. Pleader

Md. T.M.Siddiqui,

Mr. T. Chakraborty,

Mr. S. Sanyal

... for the State.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order in original dated 31st March, 2022 passed under the WBGST Act and has also challenged the constitutional validity of Section 16(2)(a) of the CGST/WBGST Act but this issue petitioner is not pressing. So far as the impugned order in original is concerned I am not inclined to interfere for two reasons namely :

Firstly the aforesaid impugned order dated 31st March, 2022 is an appellable order under the statute, secondly there is inordinate delay of fifteen

months in approaching this Court after expiry of such a long period of limitation to file the appeal.

Petitioner submits that the aforesaid inordinate delay is due to the death of its advocate Kishore Majumdar who was handed over the record to file the appeal and the petitioner was under the impression that the appeal has already been filed but it appears from paragraph 2.12 of the writ petition that the said advocate died on 17th March, 2023.

In the interest of justice and considering the statement made by Mr. Dugar, learned advocate appearing for the petitioner that petitioner is voluntarily agreeable to pay a cost of Rs. One lakh if the delay is condoned in filing the appeal, this writ petition being WPA 15515 of 2023 is disposed of by granting leave to the petitioner to file appeal against the aforesaid impugned order in original dated 31st March, 2022 subject to fulfillment of all legal formalities of filing the appeal and on condition that within ten days from date petitioner shall pay a cost of Rs. One lakh to the WBGST authority concerned and files appeal along with proof of the payment of cost before the appellate authority within a week from date of making such payment in that event the appellate authority concerned shall consider and

dispose of the appeal on merit by not raising the point of limitation.

If petitioner complies conditions indicated in this order by filing the appeal along with proof of payment of cost and pre-deposit, impugned order of garnishee order and attachment of bank account in question shall remain stayed till the disposal of the appeal to be filed by the petitioner.

With this observation and direction this writ petition stands disposed of.

(Md. Nizamuddin, J.)