

01 24.11.2023
AN Ct. No. 01

RVW 195 of 2023
Commissioner, CGST & CX, Haldia Commissionerate
Vs.
Touhid Mondal & ors.
in
MAT 841 of 2023
(CAN 1 of 2023)
(CAN 2 of 2023)
Touhid Mondal
Vs.
Chief Commissioner of Customs & ors.

Mr. Shiv Shankar Banerjee
Mr. Tapan Bhanja

... for the applicant
(CGST Authorities)

Mr. Rajarshi Chatterjee

... for the respondent

1. There is a delay of 22 days in filing the review application. We are satisfied with the reasons given in the application for condonation of delay and the delay in filing the review application is thus condoned. Hence, the application for condonation of delay is disposed of.

2. This review application has been filed by the Department seeking review of the order and direction issued in MAT 841 of 2023 dated 23.06.2023. The Department appears to be aggrieved by the directions issued in paragraph 8 of the said order which reads as follows:

“8. So far as the payment of pre-deposit for filing the appeal is concerned, the said amount of pre-deposit payable shall be adjusted from the amount already recovered from the appellant. The appellant shall file the appeal within one week from the date on which the true copy of the order in original is handed over by the Assistant Commissioner to the proprietor of the appellant.”

3. The submission of the learned counsel for the applicant is that in paragraph 6 of the said order, the Court had taken note of the fact that on 27.01.2023, a sum of Rs. 18 lakhs has been recovered from the respondents by way of bank attachment and this led to the direction issued in paragraph 8 as referred above. Further, the said recovery was relatable to an order in original dated 19.11.2014 and not relatable to an order in original dated 29.04.2022. Therefore, it is submitted that the pre-deposit is to be affected by the respondents for filing of an appeal.

4. Considering the other controversy, we dispose of the review application by modifying paragraph 8 as follows.

5. Insofar as the pre-deposit is concerned, we direct the respondents to file an application for waiver of the pre-deposit setting out all the facts and the appellate authority shall consider the waiver application and examine as to whether the recovery of a sum of Rs. 18 lakhs by way of bank attachment was pertaining to the subject issue on which the dispute has been raised by the respondents and thereafter pass a reasoned order. In the event, the authorities hold that the recovery of Rs. 18 lakhs by way of bank attachment is relatable to another proceedings, the respondents shall inform about the same and it is open to the respondents to take appropriate action in accordance with law.

6. With the above modification of the order dated

23.06.2023, this review application stands **disposed of**.
Consequently, connected application, if any, also stands
disposed of.

(T. S. Sivagnanam)
Chief Justice

(Ajay Kumar Gupta, J.)