12.09.2023
PB
Sl. No.16.

WPA 21484 of 2023

Deepak Kumar Jalan
Vs
Assistant Commissioner, Central Goods and Service Tax And Central Excise, Central Division, Kolkata North Commissionerate & Ors.

Mr. Anil Kr. Dugar,
Mr. M. S. Alam.
... For the Petitioner.
Mr. K. K. Maiti,
Mr. Tapan Bhanja.
.......for the CGST authority.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order of the appellate authority under the relevant provision of CGST Act, dated 8th February, 2023, by filing this writ petition on 1st September, 2023, i.e. almost after seven months. It appears from record that the appellate authority has dismissed the writ petition on the ground of delay in filing the statutory appeal after four months from the receipt of the adjudication order manually and actually after 54 days on excluding the statutory period allowed to file the appeal. Case of the petitioner is that the petitioner has filed the appeal electronically within time after receiving the order electronically and petitioner submits that manually it made attempt to file the appeal after getting the adjudication order manually, but the same was not accepted by the system.

Considering the facts and circumstances of the case and in the interest of justice, I am inclined to dispose this writ petition by setting aside the aforesaid impugned order of the appellate authority directing the appellate authority concerned to hear the appeal in question on merit, on condition that petitioner will pay a cost of Rs.25,000/- to the authority concerned for approaching this writ court by delay of almost 7 months from the date of receipt of the appellate authority without any proper explanation. If such cost is paid by the petitioner within two weeks from date and proof of payment of such cost is filed before the appellate authority, the appellate authroity shall pass a fresh order in accordance with law and on merit after giving an opportunity of hearing to the petitioner or his authorized representatives. The authority concerned will indicate the mode and manner of such payment to the petitioner within three days from the date of communication of this order.

With this observation and direction, this writ petition being WPA 21484 of 2023 is disposed of.

(Md. Nizamuddin, J.)