

08.12.2023
Item No.5
gd/ssd

MAT/1809/2023
IA NO: CAN/1/2023, CAN/2/2023
MADHURI SINGH
VS
STATE OF WEST BENGAL AND ORS.

Mr. Avra Mazumder,
Mr. Suman Bhowmik,
Mr. Samrat Das
..for the Appellant.

Md. T.M. Siddiqui,
Mr. Tanoy Chakraborty,
Mr. Saptak Sanyal
..for the State.

Re: CAN 2 of 2023

1. CAN 2 of 2023 has been filed by the appellant seeking condonation of delay of 14 days in filing this appeal.

2. Learned counsel for the appellant has referred to the explanation which has been furnished in the application and also has made submission in respect of the explanation for the delay.

3. We find that the delay in filing this appeal has been sufficiently explained and the appellant was prevented from filing the appeal within time on account of bona fide reason.

4. Hence, CAN 2 of 2023 is, accordingly, allowed. The delay in filing the appeal is condoned.

Re: MAT 1809 of 2023

5. The appellant filed the writ petition challenging the bank attachment notice issued by the department for recovery of the excess ITC availed by the appellant and interest thereon.

6. The learned Single Bench has dismissed the writ petition on the ground that the adjudication order having not been put to challenge the appellant has precluded from filing a writ petition challenging the bank attachment notice/demand notice.

7. It is true that the appellant is precluded from canvassing the correctness of the demand without challenging the order of adjudication.

8. However, considering the fact that the appellant is an individual and is engaged in small works contract business, we are of the view that the appellant can be granted some indulgence and if the appellant shows his bona fide, the authorities may consider granting reasonable installments so as to enable the appellant to clear the entire demand.

9. For such reason, the appeal stands disposed of by directing the appellant to pay a sum of Rs.5 lakhs on or before 22.12.2023 and another sum of Rs.5 lakhs on or before 19.1.2024.

10. If the appellant complies with the above directions within the time limit permit, then the appellant is granted liberty to file an appropriate application before the appropriate authority under

Section 80 of the CGST/WBGST Act seeking for payment of the remaining amount in reasonable installments.

11. However, if the appellant fails to comply with anyone of the installments within the time permitted, the benefit of this order will not enure to the appellant and the appeal stands automatically dismissed without reference to this court.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)