WPA 24923 OF 2023

20.11.2023
Sl no. 44
Ct no. 2
P.M.

Anup Kumar Shaw
- Vs -
Deputy Commissioner of State Tax & Ors.

Mr. Prithu Dudhoria
... for the petitioner

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

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order of the appellate authority dated 15th September, 2023, dismissing the appeal in question. Petitioner submits that the period of delay in filing the appeal in question is covered and protected by a subsequent notification of the CBIC No.53/2023-Central Tax dated 2nd November, 2023 and petitioner relies particularly on paragraph 1 of the said notification which is quoted as hereunder:-"

"S.O......(E).—In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendation of the Council, hereby notifies taxable persons who could not file an appeal against the order passed by the proper officer on or before the 31st day of March, 2023 under section 73 or 74 of the said Act (hereinafter referred to as the said order), within the time period specified in sub-section (1) of section 107 read with sub-section (4) of section 107 of the said Act, and the taxable persons whose appeal against the said order was rejected solely on the grounds that the said appeal was not filed within the time period specified in section 107, as the class of persons (hereinafter referred to as the said person) who shall follow the following special procedure for filing appeals in such cases: ....”

Mr. Siddiqui, learned Additional Government Pleader very fairly does not dispute the applicability of the aforesaid notification in the case of the petitioner.

Considering the facts and circumstances of the case and submission of the parties and taking into consideration the aforesaid notification dated 2nd November, 2023, the impugned order of the appellate authority dated 15th September, 2023 is set aside and the matter is remanded back to the appellate authority and the appellate authority shall consider and dispose of the appeal in question on merit subject to compliance of the formalities by the petitioner as per the aforesaid notification, within eight weeks from the date of communication of this order.

With this observation and direction, this writ petition being WPA 24923 of 2023 is disposed of.

(Md. Nizamuddin, J.)