WPA 25692 OF 2023

23.11.2023
Sl no. 29
Ct no. 2
P.M.

Pratyush Agarwal, Proprietor of PRC Enterprises.
- Vs -
The Assistant Commissioner, CGST &CX, Khardah Division, Kolkata North Commissionerate & Ors.

Mr. Ankit Kanodia,
Ms. Megha Agarwal,
Mr. Jitesh Sah

... for the petitioner

Ms. Smita Das De

... for Union of India

Mr. Bhaskar Prosad Banerjee,
Ms. Ekta Sinha

... for respondent CGST & CX

Petitioner has filed this writ petition challenging the impugned order of the adjudicating authority dated 28th June, 2023 denying the petitioner's claim of refund under CGST Act on the ground of delay in making the application by the petitioner within the statutory period.

It is the case of the petitioner that the statutory period within which petitioner had to file the claim for refund in question fell within the period of Covid–19 though it was beyond time but it filed the same within the Covid-19 period and petitioner submits that the said delay period was covered by the decision of the Hon'ble Supreme Court in suo moto writ petition (C) No. 3 of 2020 dated 10th January, 2020 with regard to the delay in filing any application/appeal/suit etc..

Petitioner further submits that subsequently Central Board of Indirect Taxes and Customs has also issued notification being No. 13/2022-Central Tax dated 5th July, 2022 by which petitioner is protected relating the aforesaid period of limitation.

Considering the submission of the parties and in view of the aforesaid decision of the Hon'ble Supreme Court and the notification of the Board dated 5th July, 2022 the aforesaid impugned order of the adjudicating authority is set aside and the matter is remanded back to the adjudicating authority to consider afresh and pass a speaking order on the claim of refund in question made by the petitioner by taking into consideration the aforesaid notification of the Board dated 5th July, 2022, and if it is found that the petitioner's case of limitation is covered by the aforesaid notification of the Board, the adjudicating authority shall grant relief to the petitioner subject to verification of the genuineness of transaction in question. Such proceeding shall be concluded by the adjudicating authority within eight weeks from the date of communication of this order after giving opportunity of hearing to the petitioner or its authorized representative.

With this observation and direction this writ petition being WPA 25692 of 2023 stands disposed of.

(Md. Nizamuddin, J.)