

22.12.2023
Item No.9
gd/ssd

MAT/2374/2023
IA NO: CAN/1/2023

M/S. AD NORTH EAST AIR CARGO PRIVATE
LIMITED AND ANR.
VS
THE JOINT COMMISSIONER, WEST BENGAL GST,
LARGE TAXPAYER UNIT, CORPORATE
DIVISION AND ORS.

Mr. Ankit Kanodia,
Ms. Megha Agarwal,
Mr. Jitesh Sah
..for the Appellants.

Mr. Anirban Ray, Ld. GP,
Mr. T.M. Siddiqui,
Mr. Tanoy Chakraborty,
Mr. Saptak Sanyal
..for the State.

1. This intra court appeal by the petitioners is directed against the order dated 04.12.2023 in WPA 23793 of 2023 by which the writ petition was dismissed solely on the ground that the appellants had approached the court belatedly.

2. We have elaborately heard the learned advocate for the appellants as well as the learned Government Pleader appearing for the respondents.

3. The legal issue which has been raised by the appellants in the writ petition as well as in this appeal is with regard to the effect of the retrospective

amendment brought about in Section 50 of the CGST Act, 2017 by Finance Act, 2021.

4. On going through the order passed by the appellate authority dated 14.9.2020 it appears that the effect of the said retrospective amendment has not been gone into.

5. The learned advocate for the appellants placed reliance on the decision of this court as well as the other High Courts and submitted that the issue stands covered in favour of the appellant-assessee.

6. Considering the fact that a legal issue has been raised, we are of the view that the same can be gone into by the appellate authority and a fresh decision can be taken by the appellate authority.

7. Accordingly, the appeal as well as the writ petition are allowed and the order passed by the appellate authority dated 14.9.2020 is set aside and the matter is remanded back to the appellate authority to consider the appeal petition afresh.

8. An opportunity of personal hearing be granted to the authorized representative of the appellants and the appellants shall place all materials before the appellate authority for fresh consideration in accordance with law.

9. On account of certain internal changes at present the appellate authority is a different officer and,

therefore, the matter is remitted back to the appropriate appellate authority.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)