CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

WPA 304 of 2023

Sikha Debnath
Vs.
The Assistant Commissioner of State Tax, Cooch Behar Charge and Ors.

Mr. Himangshu Kumar Ray
Mr. Abhilash Mittal
..for the petitioner

Mr. Subir Kumar Saha, AGP
Mr. Bikramaditya Ghosh
...for the State

Item No. 11
Judgment on: 10.02.2023

BIBEK CHAUDHURI, J. : –

Affidavit of service be kept with the record.

Section 107 of the West Bengal Goods and Services Act, 2017 deals with the appeals to the Appellate Authority. Sub-clause (1) of Section 107 provides that any person aggrieved by an order passed under this Act or the Central Goods and Services Act by adjudicating authority may file an appeal before the prescribed authority within three months from the date on which the decision is communicated to such person. Sub-section (4) of Section 107 authorizes the Appellate Authority to allow the appeal to be presented within a further period of one month after expiry of the period of preferring an appeal, if the Appellate Authority satisfies that the appellant was prevented from presenting the appeal by sufficient cause within the initial period of three months.

In the instant case the petitioner preferred an appeal before the competent authority under the West Bengal Goods and Services Act after a delay of 27 days from the statutory period of 3 / 4 months. The Appellate Authority rejected the appeal only on the ground that the same is barred by limitation. The learned advocate for the petitioner referring to a decision in **WPA 2809 of 2022 (Suraj Mangar versus Assistant Commissioner of West Bengal State Tax, Cooch Behar Charge, Jalpaiguri, West Bengal & Ors.)** dated 9th January, 2023 submits that this Court can allow the petitioner to file an appeal where there is delay of negligible period by extending time as stipulated under Section 107 even after expiry of three plus one month.

The learned advocate for the petitioner has also referred to a decision of the Division Bench of this Court delivered on 21st September, 2022 in **MAT No. 1496 of 2022 (Debson Pumps Pvt. Ltd. and Anr. versus Assistant Commissioner of State Tax, Bowbazar Charge, Dharmatola and Anr.)** where the Division Bench of this Court was even permitted the petitioner to file an appeal after the expiry of statutory period after condoning the delay.

The learned advocate for the State is in conformity with the submission made by the learned advocate for the petitioner and submits that in view of the decisions of this Court, the prayer of the petitioner may be allowed.

In view of such submission and under the facts and circumstances of the case, the Appellate Authority is directed to accept the Memorandum of Appeal and decide the appeal on merits within six weeks.

It is made clear that this Court has not gone into the merits of the matter and the Appellate Authority is at liberty to decide the factual and legal issues involved in the appeal independently without being influenced in any way by this order.

The instant writ petition is **disposed of.**

(Bibek Chaudhuri, J.)