29.11.2023
Sl. No.68
pkd

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
[Appellate Jurisdiction]

MAT 46 OF 2023

DEBABRATA DAS
-VS-
ADDITIONAL COMMISSIONER, CENTRAL GOODS AND SERVICE TAX AND CENTRAL EXCISE [CGST AND CE] AND ORS.

Mr. Jagriti Mishra
Ms. Ananya Bhattacharya
Mr. Subham Gupta
Mr. Reshab Kumar
Mr. Raj Kumar Mitra
Ms. Mrinmoyee Das …for appellant.

Mr. Ratan Banik
Mr. Shankar Sarkar …for respondents.

The appeal is directed against an order dated March 3, 2023 passed by the learned single Judge in WPA 485 of 2023.

By the impugned order, learned single Judge dismissed the writ petition on the ground of unexplained delay. The writ petitioner sought to assail a show cause-cum-demand notice dated October 1, 2020 and an order in original passed on September 14, 2021 in the writ petition. The writ petition was filed in February 2023.

Learned single Judge, found that there were unexplained delay on the part of the writ petitioner in approaching the writ court. Learned single Judge noted that numerous opportunities were granted to the writ petitioner to contest the adjudication proceeding and that the writ petitioner did not avail of the same. Moreover, subsequent to the order in original being passed on September 13, 2021, writ petitioner did not prefer any appeal therefrom.

Learned advocate appearing for the appellant/writ petitioner submits that, both the show cause-cum-demand notice as well as the order in original were passed during the pandemic. Therefore, the appellant/writ petitioner was prevented by sufficient cause from contesting the show cause-cum-demand notice as also the order in original. He relies upon the order of the Hon'ble Supreme Court extending the period of limitation in support of his contention.

Learned advocate appearing for the respondents submits that, at least six opportunities were granted to the appellant/writ petitioner to contest the proceeding.

It is trite law that writ court is slow to interfere when, the writ petitioner does not avail of the statutory alternative remedy within the time frame fixed by statute.

In the facts of the present case the writ petitioner suffered a show cause-cum-demand notice on October 1, 2020 when the pandemic was ongoing. Thereafter, the writ petitioner suffered an order in original on September 14, 2021. The Hon'ble Supreme Court, directed suspension of the period of limitation initially on March 23, 2020 and such suspension of limitation was extended from time to time. Ultimately, by an order dated January 10, 2022, the period of limitation was extended till February 28, 2022.

The present writ petition was filed in February 2023 that is about a year subsequent to the expiry of the protection granted by the Hon'ble Supreme Court regarding limitation.

Statutory period of appeal expired within the period of protection granted by the Hon'ble Supreme Court regarding limitation. However, the appellant/writ petitioner did not approach the statutory authority in appeal or the writ court immediately on expiry of the protection granted by the Hon'ble Supreme Court regarding limitation.

Consequently, we are unable to come to the assistance to the appellant/writ petitioner in view of his conduct. We find no infirmity in the impugned order requiring interference in appeal.

MAT 46 of 2023 along with pending application are disposed of accordingly without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)