

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

WPA 1060 of 2023

Malti Debi Shaw
-versus
The Assistant Commissioner of Revenue
State Tax Goods and Services Tax, Siliguri & Ors.

Mr. Rowshan Kumar Jha
Ms. Esha Acharya
Mr. Santosh Kumar Mondal
... For the petitioner

Mr. Hirak Barman
Mr. Momenur Rahman
...For the State.

Affidavit of service filed in Court today is taken on record.

The petitioner is aggrieved by an order dated 16th January, 2023, passed by the Joint Commissioner and the Appellate Authority dismissing the petitioner's appeal challenging the order of demand issued by the respondent no.1. The appeal was dismissed only on the ground of delay.

It is an admitted position that the order dated 16th January, 2023 is an auto-generated order which is issued immediately on the appeal being presented for online filing beyond time. There is no finding by the Appellate Authority after considering the materials that the appeal cannot be entertained on the ground of delay.

The order dated 16th January, 2023 does not also disclose any reason or the parameters considered for rejecting the petitioner's appeal on the ground of delay.

In the aforesaid condition, the order dated 16th January, 2023 is set aside.

The appeal preferred by the petitioner shall be heard by the respondent no.4 on the issue of limitation. If the respondent no.4 finds that the appeal should be entertained by condoning the delay, he shall pass necessary orders and then proceed to hear the appeal on merit or else, he shall pass a reasoned order as to why the delay should not be condoned.

It is made clear that I have not gone into the merits of the petitioner's claim. All points are left open to be decided by the Appellate Authority, if occasion so arises.

Nothing further remains to be adjudicated, the writ petition is accordingly disposed of.

Since, I have not called for any affidavits, the allegations contained in the writ petition are deemed not to have been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

(Arindam Mukherjee, J.)