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03.08.2023
Ct. No.2
b.das

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction

WPA No. 1520 of 2023

Jitendra Nath Roy
Vs.
Assistant Commissioner of Revenue Commercial Taxes(SGST), Siliguri Charge & Ors.

Mr. Boudhayan Bhattacharya
Ms. Stuti Bansal
Mr. B. Ghosh ...for the petitioner.

Mr. Subir Kr. Saha
Mr. Bikramaditya Ghosh ...for the State.

Mr. Ratan Banik
Mr. B. Agarwal ...for respondent Nos.4 & 6.

Heard learned counsels for the parties.

The petitioner carries on partnership business in the name and style of M/s. Gita Construction and the business is duly registered under the West Bengal Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Act, 2017.

A show cause notice under Section 73 of the Act was slapped upon the petitioner on 17th August,2022 demanding tax to the tune of Rs.12,11,148/- and reply to the said show cause notice was invited from the petitioner within 17th September, 2022.

The petitioner did not submit any reply since no opportunity of hearing was granted to him by the authority. The final order under DRC 07 was issued on 19th October, 2022. The said order was carried in appeal by the petitioner on March 27, 2023, accompanied by an application for condonation of delay in preferring the appeal.

The appellate authority, by an order passed on 27th June, 2023, dismissed the appeal on the ground of limitation without going into the merits of the case.

The petitioner prays for setting aside the said order and an opportunity of placing his grievance against the order impugned before the appellate authority.

Upon consideration of the submission made on behalf of the parties and material on record, this Court is inclined to hold that since the petitioner intends to ventilate his grievance against the order dated 19th October, 2022 before the appellate authority, the appellate authority be directed to deal with the appeal on merits in accordance with law.

In view of the above, the order passed by the appellate authority on June 27, 2023 is set aside.

The appellate authority, being the 2nd respondent herein, is directed to deal with the appeal on merits without dismissing the same on the ground of limitation.

It is expected that the appeal shall be disposed of within one month from the date of communication of this order upon affording reasonable opportunity of hearing to all the stakeholders including the petitioner, in accordance with law.

With the above observations and directions the writ petition being WPA 1520 of 2023 is disposed of.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)