Calcutta High Court

In the Circuit Bench at Jalpaiguri

Appellate Side

09.01.2023

(SL 03)

(AK)

WPA 2809 of 2022

Suraj Mangar
Vs.
Assistant Commissioner of West Bengal State Tax, Cooch Behar Charge, Jalpaiguri, West Bengal & Ors.

Mr. Ankit Kanodia
Ms. M. Agarwal
Ms. P. Shaw
Mr. Abhilash Mittal

… for the petitioner.

Mr. Subir Kumar Saha
Mr. Bikramaditya Ghosh

…for the State.

The petitioner is aggrieved by an order dated 29.08.2022 of the Appellate Authority by which the petitioner's appeal was rejected on the ground of delay in submission of Appeal.

The respondents are represented.

Section 107 of The West Bengal Goods and Services Tax Act, 2017 deals with Appeals to Appellate Authority. Under Section 107(1), any person aggrieved by an order passed under this Act or the Central Goods and Services Tax Act by an adjudicating authority may file an appeal before the prescribed Appellate 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 the expiry of 3/6 months if the Appellate Authority is satisfied that the appellant was prevented from presenting the appeal within the aforesaid time period by sufficient cause.

In the present case, there has been a delay of 36 days after three months + one month. The petitioner, through learned counsel, claims to have been ignorant of the statutory time period framed under the 2017 Act.

Upon hearing learned counsel and considering the power of the Appellate Authority to extend the time period albeit within three + one month as well as the negligible period of delay, this court is of the view that the Appellate Authority should be directed to allow admission of the appeal on merits subject to the petitioner taking steps in terms of the Appeal by 11th January, 2023. Counsel submits that the Appeal has already been filed before the Appellate Authority as on 30th July, 2022.

It is made clear that this court has not gone into the merits of the matter and the Appellate

Authority shall decide on the facts and the law as it may consider think fit.

WPA 2809 of 2022 is disposed of in terms o the above.

(Moushumi Bhattacharya, J.)